

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

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* Docket No. 2282CR00117

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BEFORE THE HONORABLE BEVERLY CANNONE
FRIDAY, MAY 17, 2024
TESTIMONY OF JENNIFER MCCABE

APPEARANCES:

For the Commonwealth:

BY: ADAM LALLY, A.D.A.
LAURA MCLAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.

Dedham, Massachusetts
Room 25

Christine D. Blankenship, CVR
Court Reporter/Transcriber

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
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Jennifer McCabe (By Mr. Lally)	3			
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1 (Court in session.)

2 (Defendant is present with counsel.)

3 (Jury in.)

4 MR. LALLY: The Commonwealth would call Jennifer McCabe
5 to the stand.

6 JENNIFER MCCABE, sworn

7 DIRECT EXAMINATION

8 BY MR. LALLY:

9 Q Good afternoon, ma'am.

10 A Good afternoon.

11 Q Could you please state your name and spell your last
12 for the jury?

13 A Sure. Jennifer McCabe, M-C-C-A-B-E.

14 Q And where do you live, ma'am?

15 A Canton.

16 Q And how long have you lived in Canton?

17 A Approximately 20 -- well, my whole life, I've lived in
18 Canton except for when I first got married I lived in
19 Stoughton for a year or two.

20 Q And where you live currently in Canton, how long have
21 you lived there?

22 A I live at (f) [REDACTED], and I've lived there about
23 ten years.

24 Q And prior to that, where did you live in Canton before
25 Country Lane?

1 A 15 Sutcliffe Ave. in Canton.

2 Q And how long did you live on Sutcliffe?

3 A Approximately ten years.

4 Q And with regard to both addresses, who, if anyone, do
5 you live there with?

6 A I live there with my husband, Matt, and my four
7 daughters.

8 Q And how old are your four daughters?

9 A Fifteen, sixteen, eighteen, and twenty.

10 Q Now, if I could turn your attention to January 28th
11 into January 29th of 2022, do you recall those days?

12 A I do, yes.

13 Q Do you recall what days of the week they were?

14 A Friday and a Saturday.

15 Q Starting with Friday, January 28th in the evening do
16 you recall what was going on that night or where you went,
17 what were you doing that night?

18 A Well, first I set up at my house for a team dinner for
19 my daughter's hockey team, then I met up with some parents,
20 my daughter played for the Canton High basketball team so
21 we met up with some parents before. We had a drink,
22 appetizers. My younger two were with us. We fed them
23 dinner and then we went on to Canton High School to the
24 basketball game.

25 Q Now starting back with the oldest daughter with the

1 hockey dinner at your house, that was your daughter, Ally,
2 is that correct?

3 A Yes.

4 Q She's your oldest?

5 A Yes.

6 Q Now the daughter who had the basketball game is that
7 your second oldest?

8 A Yes.

9 Q And with regard to her, she was on the varsity team, is
10 that right?

11 A Yes.

12 Q For Canton High School?

13 A Yes.

14 Q With respect to just basketball in general when the
15 kids were younger what if any role did you have in regard
16 to that?

17 MR. JACKSON: Objection.

18 THE COURT: I'll allow it but then you'll move
19 on quickly.

20 A I was a basketball coach for the Rec, well, the town
21 program.

22 Q For how many years?

23 A I believe with (C) I started approximately when she
24 was in fifth grade and then I was also a coach for my
25 daughter (C) I think starting when she was in sixth

1 grade and with my youngest I think I coached from first
2 grade on up until eighth grade.

3 Q As far as the high school game was concerned is there a
4 sort of typical start time for high school basketball
5 games?

6 MR. JACKSON: Objection.

7 THE COURT: Move on. We know the time. Move
8 on.

9 Q After the basketball game where did you go?

10 A My husband and I dropped my youngest daughter home and
11 then we proceeded to meet my sister at the Waterfall.

12 Q Which sister is that?

13 A My sister Nicole.

14 Q How many sisters do you have?

15 A Three.

16 Q Do you recall about what time it was that you got to
17 the Waterfall?

18 A Approximately nine o'clock.

19 Q When you say we, who do you mean?

20 A My husband Matt and myself.

21 Q Do you recall which vehicle that you were in going
22 around Canton that night?

23 A I believe it was my car, yes.

24 Q What kind of car was that?

25 A Denali Yukon, I think. Denali, yes.

1 Q So a bigger type vehicle, is that correct?

2 A Yes, a big SUV.

3 Q Now, with respect to, you had a cell phone around that
4 time, is that correct?

5 A Yes.

6 Q And your cell phone, what if any connection did that
7 have between the cell phone and the vehicle?

8 A At that point I don't think mine was connected. I'm
9 not sure.

10 Q When you arrived to the Waterfall what, if anything,
11 did you do?

12 A I waited a few minutes because my husband was on a
13 phone call.

14 Q At some point did you and your husband then go in?

15 A Yes.

16 Q And when you arrived in the Waterfall where within the
17 Waterfall did you go?

18 A We walked in and I believe we sat at the third table.

19 Q At the time that you arrived who, if anyone, was there
20 that you were familiar with at that table?

21 A Chris and Julie Albert, Nicole Albert, Caitlin Albert,
22 Tristan Morris.

23 Q At some point shortly after that or at some point after
24 that who, if anyone else, came in and joined the group that
25 you were with?

1 A Nick Kolokithas did then his wife did a little bit
2 after and then Brian Albert and Brian Higgins arrived and
3 then Karen and John arrived.

4 Q Prior to Karen and John arriving who, if anyone, from
5 the group had left?

6 A I believe Tristan left maybe to go to sleep because he
7 had to plow, I think.

8 Q Now, with reference to Karen and John we're talking
9 about John O'Keefe and Karen Read, correct?

10 A Yes.

11 Q How long had you known John O'Keefe?

12 A Approximately ten years.

13 Q How was it that you first came to know John O'Keefe?

14 A John's sister and her husband lived in the neighborhood
15 and my daughter became friends with John's niece when they
16 were in kindergarten and during that kindergarten year
17 John's sister and then brother-in-law passed away and John
18 moved in and took care of the kids.

19 Q Just for clarity purposes this would have been when you
20 were living at the home on Sutcliffe?

21 A Yes.

22 Q And then after John moved in with his niece and nephew
23 what if any role or what if any relationship did you have
24 with either John or his niece specifically?

25 A So my daughter was very good friends with his niece and

1 so, you know, she would be over all the time and JJ would
2 come over with (c) and pick her up and he would come in
3 and talk to us and hang out.

4 Q How would you describe your relationship with John
5 O'Keefe? A He was my friend. I loved John. He was an
6 amazing guy.

7 Q With reference to Karen Read and just for clarity
8 purposes do you see Karen Read in the courtroom today?

9 A Yes, I do.

10 Q Would you identify just as to where she's seated or an
11 article of clothing that she's wearing?

12 A She's seated between her attorneys.

13 MR. LALLY: Your Honor, I ask the record
14 reflect identification of the witness.

15 THE COURT: Yes.

16 Q Now with the defendant, Ms. Read, when was it that you
17 met her?

18 A John had reached out to me saying that he was dating a
19 new girl and that she had and I also have so he said
20 would like for me to meet her.

21 Q How long have you had

22 A I believe it will be ten years this October.

23 Q Do you recall specifically when around that was, what
24 year, what month, anything like that?

25 A That I met Ms. Read?

1 Q Yes.

2 A Yes, they came over in July of 2020.

3 Q And came over to your house, is that correct?

4 A Yes, they came over to the house. They brought the
5 kids, swam. I have a pool.

6 Q Now over the course of, you were familiar obviously
7 that Ms. Read was dating Mr. O'Keefe, correct?

8 A Uh-huh.

9 THE COURT: Is that yes?

10 THE WITNESS: Yes. Sorry.

11 Q Over the course of time from July of 2020 when you met
12 her to January of 2022, how often would you see Ms. Read?

13 A It would vary. You know, there were times that we
14 would bump into them or depending on you know, sports or
15 you know, for my daughter's birthday party when it was time
16 to pick up they'd come over and hang out or Halloween. It
17 just varied. We have four kids so we're always kind of in
18 all different directions. It just depends on what month it
19 is and what team we're with.

20 Q How would you describe your relationship with Ms. Read?

21 A I enjoyed Ms. Read. I really liked her. I thought we
22 connected from the beginning. She's very easy to talk to.
23 She had ■■■. I had ■■■ and there's not a lot of people our
24 age that I personally know that have it so it was nice to
25 have someone who understood like what I was going through.

1 We had that in common.

2 Q Now, with respect to either talking with Mr. O'Keefe
3 was your friendship the type where you would have any sort
4 of discussions about his relationship with Ms. Read or any
5 girls that he dated at any point in time that you were
6 friends with him?

7 A At different points, yes.

8 Q What, if anything, specific do you recall him telling
9 you about his relationship with Ms. Read, specifically?

10 MR. JACKSON: Objection.

11 THE COURT: I'm going to allow that. I'd like
12 to see counsel at sidebar for just a minute, please.

13 (Sidebar commences:

14 THE COURT: I need to hear exactly what the response is
15 going to be, then I'll ask you if you want an instruction.

16 MR. LALLY: Your Honor, what my anticipation with
17 regard to both this and when I ask the same question in
18 regard to Ms. Read is really not much at all. In fact,
19 it's really more the negative that I want to get out.

20 THE COURT: Right. So what do you --

21 MR. LALLY: She didn't have the kind of relationship
22 with her to talk about their relationship.

23 THE COURT: Oh, so you expect just a yes for John and
24 no for -- do you expect her to expand upon her --

25 MR. LALLY: No.

1 THE COURT: -- troubles or anything like that?

2 MR. LALLY: Not at all.

3 THE COURT: At some point during the examination, you
4 do expect that?

5 MR. LALLY: At some point during the examination, I
6 just expect some conversation that the jurors have heard
7 because she was present with the defendant was talking to
8 (indiscernible) about issues with the kid, not enough time
9 to do their own things, that kind of thing.

10 THE COURT: All right. So you let me know if you want
11 me to give an instruction that this statement just goes to
12 the nature of the relationship.

13 MR. JACKSON: Based on that offer of proof, I'm not
14 asking for it at that the time.

15 THE COURT: All right.

16 MR. JACKSON: Thank you.

17 end of sidebar.)

18 Q So Ms. McCabe, with regard to Mr. O'Keefe and his
19 relationship with Ms. Read is that something that you spent
20 any real time talking about with Mr. O'Keefe?

21 A Occasionally, Hey, how are things going, how is she
22 feeling, how is she doing, very general.

23 Q And the same sort of question with regard to Ms. Read,
24 is that a conversation that you had as far as her
25 relationship with Mr. O'Keefe?

1 A Yes, similar.

2 Q Now, on that evening, if I could turn you back to the
3 Waterfall --

4 A Uh-huh.

5 Q -- you arrived about 9:00. About what time was it that
6 you left?

7 A Approximately midnight, a little after, give or take.

8 Q So during the three hours or so that you were there how
9 would you describe sort of the mood or demeanor of the
10 group that you were with during the time you were there?

11 A Fine. Friendly, normal, typical night, you know, I was
12 having a drink, listening to music.

13 Q At about 11:00 o'clock or so was that Mr. O'Keefe and
14 Ms. Read came into the bar?

15 A Correct.

16 Q And when they came in the bar where did they go in
17 relation to where you were?

18 A They came right over and talked to the group that we
19 were with.

20 Q When Mr. O'Keefe and the defendant came over what, if
21 anything, did you observe the defendant do or have with her
22 when she came in?

23 A She had brought a glass with her and kind of took it
24 out of her coat and just kind of chuckled about it.

25 Q What, if anything, did you observe about the glass?

1 A I believe it had ridges on it.

2 Q What if anything did you observe as far as what was in
3 the glass?

4 A It was clear.

5 Q Were there any other kind of like a straw or a lime or
6 anything like that in it?

7 A I don't remember.

8 Q As far as you knew at some point did you become aware
9 of where Mr. O'Keefe and Ms. Read had been prior to coming
10 over to the Waterfall?

11 A Yes.

12 Q And where were they?

13 A C.F. McCarthys.

14 Q Where is that in location to the Waterfall?

15 A Just right up the street.

16 Q Now, over the course of the evening you were at a bar.
17 Fair to say you were drinking, is that right?

18 A Yes.

19 Q Do you recall specifically what you were drinking?

20 A I think beer.

21 Q Same question with regard to Mr. O'Keefe. Do you
22 recall him drinking, and if so, what, if anything, was he
23 drinking?

24 A I can't be certain. Possibly a beer but I can't be
25 certain.

1 Q With respect to Ms. Read, same question as far as do
2 you recall her drinking, and if so, what, if anything, do
3 you recall her drinking?

4 A Again, I remember just a clear glass, a glass with
5 clear liquid in it.

6 Q Any different glass beyond the one that you've already
7 testified about or no?

8 A I don't remember. Sorry.

9 Q Now, you left the Waterfall sometime around midnight,
10 is that correct?

11 A Yes.

12 Q Well, let me ask you this, first. I'm sorry. So with
13 respect to the time that you were at the Waterfall did you
14 speak with Mr. O'Keefe?

15 A Yes, briefly at the bar.

16 Q Do you recall just generally what it was that you
17 talked about?

18 A Yes, his niece had just gotten into Bishop Feehan so he
19 was very excited.

20 Q With respect to Ms. Read, did you speak to her at the
21 bar?

22 A Yes.

23 Q Do you recall, what, if anything, the two of you spoke
24 about?

25 A Yes.

1 Q And what was that?

2 A Karen had shared a little bit of frustration that
3 morning, or one morning she had taken (c) to Dunkin
4 Donuts and John, you know, was frustrated, didn't, you
5 know, saying don't take her, she's going to, you know, make
6 a habit of it, meaning like she's going to come to expect
7 it every day and then we just talked about how, you know,
8 challenging it is with kids.

9 You know, she mentioned that that's all they
10 ever fight about and I said, Yeah, well, welcome to
11 parenthood, you know, and she was just a little bit
12 frustrated, felt like the family needed to be doing more to
13 help and she just wished she had, you know, more time, just
14 her and John.

15 But again, it was just, you know, girlfriend
16 to girlfriend kind of venting.

17 Q As far as Mr. O'Keefe was concerned, what if any
18 observations did you make as to how he was dressed?

19 A Baseball hat, jeans. That's what I remember.

20 Q Do you recall any sort of winter coat or heavier coat
21 or anything like that?

22 A No.

23 Q Now, over the course of the evening at the Waterfall
24 what if any discussion was there amongst the group as far
25 as going somewhere next or what to do after the Waterfall?

1 A Karen had asked Chris if we could go up to D&E. She
2 wanted to go up to D&E and have him cook some food.

3 Q Was that something that was brought up by the defendant
4 once, more than once or something else?

5 A Many times.

6 Q What was sort of the response from the group in regard
7 to going to the D&E and making food?

8 A Brian, Chris and Matt do this annual weight loss
9 challenge every year and it was in the midst of that so
10 they were like no, no, no, you know, we can't go up there.
11 We're not going to eat. We'll do it another time.

12 Q Now, following that conversation what if any other,
13 well, let me ask you this, why did you go to the Waterfall
14 in the first place?

15 A I went to meet my sister, Nicole. She was heading
16 there because she was going to go have a drink with her,
17 her son was going to have some friends and then meet out so
18 I was going to meet them for a drink for my nephew's
19 birthday.

20 Q To be clear that nephew was Brian Albert, Jr., is that
21 right?

22 A Yes.

23 Q And did Brian Albert Jr. ever show up at the Waterfall
24 that evening?

25 A He did not, no.

1 Q Do you know why not?

2 A Brian suffers from anxiety and during that time period
3 he was really struggling.

4 Q So he decided to stay home, is that fair?

5 A He just decided to stay home, yes.

6 Q After the discussion about going over to D&E and then
7 the communication of not going over, what if any other
8 discussion was had as to where people were going and what
9 was happening after leaving the Waterfall?

10 A Brian Albert, Sr. just made a general, Hey, I'm going
11 to go home, have a drink with Brian if anyone would like to
12 come.

13 Q And was that something that expressed to certain people
14 or was it expressed at the table or how was that expressed?

15 A It was expressed to everyone. Like, Hey, we're going
16 to go back home, have a beer with Brian, if anyone would
17 like to come.

18 Q Now, after that was sort of put out to the table what
19 if any discussion did you have in regard to that with
20 either Mr. O'Keefe, Ms. Read or both?

21 A Both of them. I said, Oh, you guys should come, do you
22 want to come.

23 Q Did they indicate that that was something that they
24 wanted to do or did they indicate that they were coming?

25 A They both wanted to come and they said they were

1 coming, yes.

2 Q Now, when you left the Waterfall who --

3 A Uh-huh.

4 Q -- if anyone, left with you or left at the same time?

5 A I believe I walked out with Karen. I know I walked out
6 with Karen and I believe Miss Kolokithas, as well.

7 Q Prior to you leaving, your sister, Nicole and her
8 husband, Brian, had they left prior to you leaving?

9 A Yes.

10 Q And so you're walking out with the defendant and Miss
11 Kolokithas, is that right?

12 A Yes.

13 Q When you were walking out with them what if anything
14 was the sort of the conversation or discussion as you were
15 walking out the door?

16 A Well, Matt and John were still inside so at one point I
17 said, Oh, Karen why don't you just come with me, figuring,
18 you know Matt can talk to anyone and God knows how long he
19 was going to stay in there so I was just like, Hey, do you
20 want to drive with me and they can meet us.

21 Q Your husband is a talker, is that correct?

22 A Yes.

23 Q Now as far as the car that you had parked there before
24 where was that parked in relation to the Waterfall?

25 A I believe I had kind of walked straight out.

1 Q So in the parking lot somewhere?

2 A In the parking lot, yes.

3 Q After you had exited from the Waterfall at some point
4 did you observe Mr. O'Keefe come out, as well?

5 A Yes, he did.

6 Q Did you have any conversation with him in the parking
7 lot while you were out there?

8 A I believe briefly Karen, him and I all spoke, yes.

9 Q Do you recall briefly what you spoke about?

10 A Them coming back to Fairview.

11 Q After sort of the two of you parted ways did you
12 observe where Mr. O'Keefe and the defendant went?

13 A I just saw them take a, like they walked left. I
14 walked straight.

15 Q And if one were to walk left in the direction they were
16 walking where would that bring them?

17 A Washington Street, the main street.

18 Q And so you went over then to your car in the parking
19 lot?

20 A Yes.

21 Q While you were in your car in the parking lot, well,
22 let me ask you this, when you walked out of the Waterfall
23 what if anything was different about the weather from when
24 you had walked in?

25 A It had started to snow.

1 Q As far as the snow was concerned what was that initial
2 point when you walked out of the Waterfall, was it
3 accumulating or anything like that?

4 A Yes, I would say, you know, it was starting to cover
5 the cars so you'd have to put the windshield wipers on to
6 clear it.

7 Q You didn't have to get the scraper out or anything like
8 that, just flip on the windshield wipers?

9 A Flip on the windshield wipers. I probably was lazy and
10 just rolled the windows down to get it off the windows.

11 Q So you're in the car for some period of time waiting
12 for your husband, correct?

13 A Yes.

14 Q And about how long is it that you're waiting for your
15 husband before he comes out?

16 A Actually, it wasn't long. I think I turned the car on
17 and then I saw him walking and I pulled up.

18 Q While you're waiting for your husband or shortly after
19 he gets to the car what if any communication did you
20 receive at that point?

21 A I received a text from John saying, "Where to."

22 Q And with respect to that did you respond in kind via
23 text or how did you respond if at all to --

24 A I was driving so I called him.

25 Q When you called him, if you know, was that something

1 that was done through Bluetooth with regard to the car or?

2 A Yes, it would have been because it was my phone and I
3 was driving so I would have had it over the car.

4 Q Your phone, it have been paired up with your phone?

5 A Yes, I plugged it in when I got in. I always plug my
6 phone in when I get in if I am driving.

7 Q With your husband in the car fair to say that he could
8 hear both sides of the conversation as far as you and Mr.
9 O'Keefe?

10 A Yes.

11 Q And so that initial call that you placed to Mr.
12 O'Keefe, is that done while you're driving?

13 A Yes.

14 Q What if anything were you telling him as far as that
15 initial call?

16 A He had asked for the, he said where to. I gave him the
17 address and then I believe I, you know, just started giving
18 him directions and I actually think Matt spoke over me and
19 was saying, go this way, go this way and then I said yeah,
20 you just go down Fairview, it's at the bottom.

21 Q As far as the directions do you recall anything
22 specifically about what you told Mr. O'Keefe as far as
23 where the directions were?

24 A He actually called back a second time and when he
25 called back a second time I instructed him that it was by a

1 friend's house, one of, his niece and my daughter's friend.
2 I said it's right, go past [REDACTED]'s street, it's at the
3 bottom of the hill.

4 Q Before we get to that as far as that initial phone
5 call, essentially Fairview Road you're familiar with?

6 A Yes.

7 Q It's where your sister lives with her family, correct?

8 A Yes.

9 Q If I can just ask, with regard to your sister's
10 husband, Brian, how long have you known him?

11 A Since I was in kindergarten, a very long time.

12 Q So they had dated for some period of time before they
13 got married and they've been married for some significant
14 period of time?

15 A Yeah, she had a crush on him for years, then they dated
16 I think for ten years before they got married, so yeah,
17 they've been together most of my life.

18 Q You're familiar with Fairview in the sense there's, one
19 end of it is Chapman and at one end of it is Cedarcrest,
20 correct?

21 A Yes.

22 Q Just in that initial phone call that you had with Mr.
23 O'Keefe and you and your husband are giving directions do
24 you recall if you were indicating to him to go to
25 Cedarcrest or to go to Chapman in order to get onto

1 Fairview?

2 A Go to Chapman.

3 Q Is that the way that you went as far as going from
4 Washington Street downtown to Fairview?

5 A Yes.

6 Q Now, about how long a drive is that going from the
7 Waterfall to Fairview Road?

8 A Approximately five-plus minutes depending on if you hit
9 lights.

10 Q You're indicating two things, you're indicating for
11 someone to come down Chapman, your testimony is sort of
12 towards the end from that direction?

13 A The end of Fairview, the bottom of Fairview.

14 Q That's to my point as far as the bottom what if any
15 kind of incline or decline or how is the road sort of
16 situated as you come from the Chapman side down to where
17 your sister lives at 34 Fairview?

18 A It's a hill.

19 Q And the hill goes down, is that correct?

20 A Yes.

21 Q Is that somewhat of a precipitous, how would you
22 describe the hill?

23 A The first hill is a bit steep and it flattens a little
24 and then there's another hill. The second hill is more
25 long.

1 Q There's actually two hills as you're going down,
2 correct?

3 A Yes.

4 Q Now, you mentioned a second call, Mr. O'Keefe then
5 calls you?

6 A Yes.

7 Q About how much time elapsed between when you first
8 talked to Mr. O'Keefe and the second?

9 A Approximately four or five minutes, tops.

10 Q During either call that you had with Mr. O'Keefe could
11 you hear anything, you had it on Bluetooth, correct?

12 A Yes.

13 Q Could you tell whether or not he was connected to a
14 Bluetooth, did you hear anything in the background?

15 A I couldn't, no.

16 Q And as far as when you were speaking to Mr. O'Keefe did
17 he express an intent that he was going to the house on
18 Fairview?

19 A Yes, he was driving there and he was trying to find it.

20 Q And when he indicated that he was trying to find it was
21 he expressing that in singular or plural or something else?

22 A No, more general, like where is it type.

23 Q Did he make any reference during the time that you were
24 talking to him to anyone he was with?

25 A No.

1 Q Now as far as this second call you indicated, what did
2 you use exactly as sort of a geographic locator?

3 A My daughter and his niece's very close friend lives on
4 a side street off of Fairview so I just said go past
5 [REDACTED]'s street and it's at the bottom.

6 Q And [REDACTED] was someone that through his niece John
7 O'Keefe would have known, correct?

8 A Correct.

9 Q Now at this time what if any relationship were you
10 aware of between [REDACTED]'s mother and John O'Keefe?

11 A They had dated brief --

12 MR. JACKSON: Objection.

13 THE COURT: No, I'm going to allow it.

14 A They had dated briefly years before.

15 Q Now was that sort of the substance of the conversation
16 that you had with Mr. O'Keefe in that second phone call?

17 A Yes.

18 Q Now after that second phone call did you speak to Mr.
19 O'Keefe on the phone at any point in time after that?

20 A No.

21 Q Now you arrive at the house on Fairview, do you recall
22 where you parked when you got there?

23 A Yes, pulled into the driveway.

24 Q And the driveway at the house of Fairview essentially
25 has two garage doors, is that correct?

1 A Yes.

2 Q It sort of winds out and gets to the top, closer to the
3 house?

4 A Yes.

5 Q Do you recall where in relation to the driveway it was
6 parked when you got there?

7 A I just remember pulling in. There was definitely a car
8 in front of me. There possibly could have been a car to
9 the left.

10 Q You exit the vehicle and go into the house, correct?

11 A Correct.

12 Q When you get to the house, who, if anyone, do you
13 observe in there?

14 A When I walk in Caitlin Albert, Brian Albert, Julie
15 Nagel and Sarah Levinson are all sitting at the kitchen
16 table. My sister Nicole was in the kitchen wiping the
17 counters because she's always cleaning and Brian Albert and
18 Brian Higgins were in the I guess you'd call it the TV room
19 area just standing and talking.

20 Q And ma'am, I'm sorry, I'm just having a little trouble
21 hearing you.

22 A Oh, okay.

23 Q That microphone, you can adjust that any way you want,
24 so any way you want to put that.

25 A Okay.

1 Q Thank you. When you come into the house where was, you
2 mentioned a table, where were people situated?

3 A In the kitchen.

4 Q Now with respect to what was going on at the house
5 throughout the course of the evening that you were there?

6 A I sat at the table and I just spoke to Brian and Katie
7 and the two girls most of the night.

8 Q Just so we're clear when you're talking about Brian
9 that's Brian Albert, Jr. or little Brian?

10 A Yeah, little Brian.

11 Q As far as at any point in time when you were at the
12 house are you familiar with a gentleman, someone named
13 Colin Albert?

14 A I am, yes.

15 Q How do you know him?

16 A He is my friend's son and my sister's nephew.

17 Q Your friend Julie's son, correct?

18 A Yes, my friend Julie's son.

19 Q And your oldest daughter Ally was Colin's friend, is
20 Colin's friend, with your oldest daughter, Ally?

21 A Yes, they're born a week or two apart and we've kind of
22 just, they've done everything together. They're very good
23 friends.

24 Q Now at any point in time that you were there on that
25 early morning did you see Colin Albert at all?

1 A No.

2 Q And when you arrived at the house obviously you're
3 familiar with your daughter and the car that she drives
4 around that time did you see your daughter, Ally, there at
5 any point in time?

6 A No.

7 Q Were you aware at any point in time in the early
8 morning hour that you were there that your daughter had
9 been there at any point in time --

10 MR. JACKSON: Objection.

11 THE COURT: Sustained.

12 Q (By Mr. Lally) Now with reference to the home, at any
13 point in time did John O'Keefe ever come inside the house
14 that night?

15 A No.

16 Q During the time that you were there and let me ask more
17 specifically you were there and about what time did you
18 leave?

19 A I believe I left approximately around 1:30-1:45;
20 approximately.

21 Q And do you know about what time it was that you arrived
22 there?

23 A I'd say approximately somewhere between 12:20-12:30,
24 well, 12:20, I believe, 12:20-ish, because the last call
25 from John when I went back and looked is 12:18.

1 Q Similar to what I asked about the Waterfall as far as
2 the sort of mood or demeanor inside the house what do you
3 recall with respect to that?

4 A Everyone was in a good mood. Brian and Brian were
5 talking. My sister was cleaning. I was talking with the
6 kids, you know, just a normal night.

7 Q While you were in the kitchen/dining room area for the
8 time that you were there did you see anybody or observe
9 anybody from the group that you just described go anywhere
10 else in the house as far as away from that area?

11 A Julie Nagel went outside.

12 Q So beyond Julie Nagel going outside did you see anybody
13 else go upstairs, downstairs, to the basement area or
14 anywhere else in the house?

15 A No.

16 Q Now when you were in the car and you were driving you
17 hooked your phone up to the charger, is that right?

18 A Yes.

19 Q Do you recall charging your phone at any point in time
20 when you were at your sister's house on Fairview that
21 night?

22 A I don't recall.

23 Q You mentioned Julie Nagel, Sarah Levinson, were those
24 people that you were knew prior to that that night of the
25 28th?

1 A I was familiar with who Sarah Levinson was, maybe had
2 run into her at different points. Julie Nagel was closer
3 to Brian so I would see her, I think.

4 She has dog sat for me when I've been away like
5 Brian will do it but if he's not available Julie will do
6 it.

7 I don't know if she had dog sat for me before
8 then or right after then but I was definitely familiar with
9 Julie and she possibly could have dog sat for me prior to
10 that.

11 Q Now with reference, there was also someone there by the
12 name of Brian Higgins, is that correct?

13 A Correct.

14 Q That is also someone who was there prior to you getting
15 there, is that right?

16 A Yes.

17 Q What if anything did you know about Mr. Higgins or did
18 you know him prior to that night?

19 A I had met him a few times. He's Brian Albert's friend.

20 Q So other than being your brother-in-law's friend and
21 meeting him a couple times you didn't really know him that
22 well, fair to say?

23 A Yes.

24 Q Now, you mentioned at some point that Julie went
25 outside, correct?

1 A Yes.

2 Q Ms. Nagel went outside?

3 A Yes.

4 Q Do you know what she was going outside for?

5 A Yes, her brother had come to pick her up and so she was
6 going to go tell him, you know, try to get him to come in.

7 Q And what if any conversation did you have with Ms.
8 Nagel or Ms. Levinson in regard to their going home prior
9 to Ms. Nagel going out and talking to her brother?

10 MR. JACKSON: Objection.

11 THE COURT: I'll sustain it in that form.

12 Q (By Mr. Lally) What if anything had you said to Ms.
13 Nagel prior to her going outside?

14 MR. JACKSON: Objection.

15 THE COURT: Sustained.

16 Q (By Mr. Lally) Now, if you know, about how long was
17 Ms. Nagel outside?

18 A I believe it was just a few minutes.

19 Q At any point in time while Ms. Nagel was outside what
20 if anything did you do?

21 A Excuse me?

22 Q When Ms. Nagel went outside what were you doing?

23 A I was sitting at the table and then my nephew had said
24 another car was out there.

25 Q After your nephew said that what if anything did you do

1 next?

2 A I went to the front door.

3 Q The front door of the home leads you sort of, you walk
4 in there and there's a foyer and a staircase in front of
5 you?

6 A Yes.

7 Q As far as the front door was concerned is there any
8 sort of other door, is it just sort of the wooden front
9 door or is there another door in front of it?

10 A The door was open so it was just a storm door.

11 Q The storm door is made out of glass, is that correct?

12 A Yes.

13 Q So when you went over to the storm door and looked out,
14 what if anything did you see?

15 A I saw a vehicle.

16 Q Can you describe the vehicle that you saw?

17 A I saw a dark SUV.

18 Q As far as Ms. Nagel, did you make any observations of
19 where she was when you looked outside?

20 A I kind of just looked at the vehicle and then I saw
21 lights kind of over to this side but then once I saw the
22 vehicle I took out my phone and I texted John.

23 Q Just so we're clear as far as when you say this side,
24 so you're standing at the storm door?

25 A Uh-huh.

1 Q You see the vehicle, and where is the vehicle in
2 relation to you and where you're standing at the front
3 door?

4 A It was straight ahead.

5 Q Now the headlights that you were saying as sort of off
6 to the side, from your perspective looking out at the
7 street is that to the left or the right or something else?

8 A Left.

9 Q As far as this dark SUV that you saw could you tell
10 anything else about it as far as the make or model, did you
11 recognize it at all?

12 A No.

13 Q Now, at this time on January 29, 2022, were you
14 familiar with any sort of vehicles that Mr. O'Keefe had?

15 A Yes.

16 Q And what kind of vehicles did he have?

17 A Gosh, I don't know the brand. You know, it was a small
18 SUV type.

19 Q Do you recall like what color it was?

20 A His might have been grayish. I'm not 100 percent sure.

21 Q And any other vehicles that he may have had?

22 A Yes, he had this old fashioned car that he loved but
23 (C) is so embarrassed of it, but yeah, he had that, as
24 well.

25 Q As far as Ms. Read was concerned were you familiar with

1 what kind of vehicle she had at that time?

2 A Yes.

3 Q And what kind of vehicle were you generally aware of
4 her driving?

5 A She had a Lexus.

6 Q And was that a sedan or an SUV or what kind of vehicle
7 was that?

8 A I think it was like a small SUV.

9 Q Now the vehicle that you saw outside of the residence
10 of Fairview when you looked out the storm door was that
11 consistent with what you knew Ms. Read to be driving at
12 that time?

13 A Yes.

14 Q Now as far as that vehicle was concerned at any point
15 in time over the course of the evening did you see anyone
16 exit that vehicle or come out of that vehicle at all?

17 A No.

18 Q You certainly never saw anybody exit that vehicle and
19 walk over and come inside the house?

20 MR. JACKSON: Objection.

21 THE COURT: Sustained.

22 Q (By Mr. Lally) As far as that vehicle when you first
23 saw it could you tell whether or not it was running or
24 anything like that?

25 A It was running, yes. I could, you know, you could tell

1 it was running, it had the taillights, I could see the red.

2 Q So you could see the red?

3 THE COURT: I'm going to ask you to keep your
4 voice up, okay?

5 THE WITNESS: Okay, sorry.

6 Q (By Mr. Lally) Now in addition to the taillights that
7 you saw could you see the headlights or anything like that?

8 A Yes, the headlights were on.

9 Q And as far as the interior of the vehicle were there
10 any lights on inside the vehicle that you saw at any point
11 in time?

12 A No.

13 Q As far as the windows of the vehicle what if anything
14 did you observe as far as their coloration, were there
15 tints or anything like that you saw?

16 A I didn't observe, no.

17 Q Now, you see the vehicle sort of straight ahead of the
18 front door and then you pull out your phone to text Mr.
19 O'Keefe, correct?

20 A Yes.

21 Q Do you recall what you texted to him at that point?

22 A I think I said, "Here", question mark.

23 Q Do you think you said here, is that correct?

24 A Yes.

25 MR. LALLY: Your Honor, may I approach?

1 THE COURT: Yes. Show Mr. Jackson. Okay.

2 MR. LALLY: May I approach the witness, your
3 Honor?

4 THE COURT: Yes.

5 Q (By Mr. Lally) Ma'am, I'm showing you a three-page
6 document. I just ask you to look at that and look up when
7 you're done?

8 A Okay.

9 Q Just generally speaking, that three-page document do
10 you recognize that contents of that?

11 A I do.

12 Q What do you recognize it to be?

13 A It's my text messaging with John.

14 Q So from sort of the early part of the 28th to around
15 midnight through, I'm sorry, the 29th through the entirety
16 of the 29th?

17 A Yes.

18 MR. LALLY: May I approach again, your Honor?

19 THE COURT: Yes.

20 MR. LALLY: The Commonwealth would seek to
21 introduce and admit as the next exhibit.

22 THE COURT: Is there any objection, Mr.
23 Jackson?

24 MR. JACKSON: If we may approach briefly?

25 THE COURT: Okay.

1 (Sidebar commences:

2 MR. JACKSON: I don't have a principal objection to the
3 content, but I thought we were being extraordinarily
4 (indiscernible). That's my only issue. This -- I'm happy
5 to use this, but if the Commonwealth uses it, but I don't
6 use similar documents we will run into the same issues that
7 Mr. Yannetti ran into that there's an identical document
8 for all the group chats. So I'm happy if the Commonwealth
9 is saying they don't care about the redactions, then I
10 don't care either. But I want to make sure that I'm
11 following the Court's orders concerning redactions.

12 THE COURT: I appreciate that. So there are no
13 redactions of the phone numbers here?

14 MR. LALLY: There are no -- my apologies. I sort of
15 didn't mean to put any of that kind of -- I think some of
16 the information has to be there as far as them being able
17 to recognize and authenticate it. Obviously --

18 THE COURT: Which the Commonwealth has the burden of
19 and the defendant's just sort of came in.

20 MR. JACKSON: I would love it. I would love it if we
21 just use clean copies if everybody could read, I would love
22 it.

23 MR. LALLY: What I would suggest, and I think the
24 concern is very well founded as far as, you know, press or
25 media getting hold of copies of exhibits.

1 THE COURT: Right.

2 MR. LALLY: So if I could ask for an order from the
3 Court that whatever we put in as exhibits or versus
4 whatever is then released, and I'm happy to make the
5 redactions myself. I'm not trying to put that on the Court,
6 but just I think it's easier for our purposes for
7 conducting the trial to have unredacted things and then we
8 can redact the information --

9 THE COURT: Except if you broadcast it -- if you
10 publish it, then the cameras are taking pictures of it, and
11 everybody watching TV gets these phone numbers. So that's
12 why I said -- one of the reasons I said everything needed
13 to be redacted before it was introduced into evidence.

14 So this is the luncheon break. You can just quickly
15 cross it out if that's what you want to do, but I mean,
16 were you planning on publishing this?

17 MR. LALLY: I was, yes.

18 THE COURT: So we've got the luncheon break to redact
19 them.

20 MR. LALLY: Okay.

21 MR. JACKSON: It's fine with me. Again, I'll just put
22 it out there. I can reasonably conduct my examination
23 without publication as long as I can show her clear - which
24 we have copies of - clear, concise texts that would make my
25 life and Mr. Lally's life so much easier. I don't have to

1 publish them. I just need to be able to read them and have
2 her read them, so.

3 THE COURT: And that's fine, too, as long as -- do you
4 intend to introduce them.

5 MR. JACKSON: I do.

6 THE COURT: A hard copy?

7 MR. JACKSON: A hard copy.

8 THE COURT: Do you have redacted hard copies.

9 MR. JACKSON: We do.

10 THE COURT: So you've got the clean copy and a redacted
11 hard copy?

12 MR. JACKSON: We've got both.

13 THE COURT: That's the ideal way to do it.

14 MR. JACKSON: That's what I would suggest.

15 THE COURT: So --

16 MR. JACKSON: The jurors can have the clean copy and
17 the press can have the redacted copy.

18 THE COURT: No, no, no, whatever goes to the jury will
19 be for the press. So the clean copy, I thought you were
20 just going to show to the witness and then the redacted
21 copy --

22 MR. JACKSON: (Indiscernible.)

23 THE COURT: -- that's how it should be.

24 MR. JACKSON: Even better.

25 THE COURT: So clean copy so the witness can

1 authenticate them rather than just reading her name like
2 Mr. McCabe was allowed to do. So are you going to be able
3 to do this to be able to complete today's examination?

4 MR. LALLY: There really isn't much.

5 THE COURT: So that's a yes during lunch?

6 MR. LALLY: Yes.

7 THE COURT: Okay. So just so it's clear, that's how
8 we'll do it. Clean copies to show to the witness that the
9 witness can authenticate and then redacted copy is actually
10 introduced and redacted copies go up on the screen.

11 MR. LALLY: Okay.

12 MR. JACKSON: Perfect.

13 THE COURT: Everybody's in agreement with that?

14 MR. LALLY: That's fine.

15 THE COURT: All right. I'm going to release them for
16 lunch, and then I'm just going to -- I didn't give the
17 digital evidence instruction before Mr. McCabe because I
18 was just, frankly, trying to move it along at that point,
19 so I'll start the afternoon with that.

20 MR. LALLY: Okay. That makes sense.

21 end of sidebar.)

22 THE COURT: So it's the luncheon break. It's actually
23 great timing, so we'll have you back here at two o'clock,
24 and, Ms. McCabe, I'll just ask you to let the jurors walk
25 out first and then you can leave.

1 (Jury out.)

2 THE COURT: Okay. So we're still in session.

3 THE COURT OFFICER: Please be seated. Court
4 is back in session.

5 MR. JACKSON: Your Honor, just so the Court
6 can has it, I have an extra copy for the Court.

7 THE COURT: That's what I was hoping for.
8 Thank you.

9 MR. JACKSON: May I approach?

10 THE COURT: Yes. Thank you. And then, Mr.
11 Lally, you'll be able to make those redactions that are
12 necessary over the luncheon break?

13 MR. LALLY: Yes, your Honor. I think what we
14 can -- and by we, I mean Ms. Gilman because she's the one
15 who can actually do these things.

16 But, no, I think we'll be able to sort of take the
17 whole numbers off of it and be able to print new copies
18 without the numbers so that they can be used.

19 THE COURT: So they're the same version?

20 MR. LALLY: Exact same thing.

21 THE COURT: Clear for authentication, redacted
22 for purposes of admission and publication.

23 MR. LALLY: Yes. Yes.

24 THE COURT: Great. I appreciate that. We'll
25 see you at 2:00.

1 (Court in recess.)

2

3

4

5 (Court in session at 2:04 p.m.)

6 (Defendant is present with counsel.)

7 (Jury in.)

8 THE COURT OFFICER: Good afternoon. Court is
9 back in session. Please be seated.

10 THE COURT: All right. So, Mr. Lally, just
11 before you begin.

12 Folks, I neglected to tell you before or during the
13 testimony of Mr. McCabe, and I don't want to keep repeating
14 instructions, but I do want to remind you when it comes to
15 electronic communications, before you can consider them in
16 your deliberations, you must first find that it's more
17 likely true than not that the person who authored or sent
18 the communication was, in fact, the person identified as
19 doing so.

20 If you do not find it more likely true than not that
21 the person identified as sending the message was the one
22 who sent it then you may not consider that electronic
23 communication in your deliberations.

24 All right. Thank you. Mr. Lally, go ahead.

25 MR. LALLY: Thank you, your Honor. Your Honor, may I

1 approach?

2 THE COURT: Yes.

3 MR. LALLY: Your Honor, the Commonwealth would seek to,
4 well, I'm sorry let me --

5 Q In those pages that I've just placed before you do you
6 recognize the content of those?

7 A I do.

8 Q And what do you recognize those to be?

9 A They are text messages between myself and John.

10 Q And from sort specifically that time period of the
11 early morning of January 29th through the morning of
12 January 29th?

13 A Yes.

14 Q And what's contained in those, is that a fair and
15 accurate portrayal of the content of those text
16 communications?

17 A Yes.

18 Q Now with reference to Mr. O'Keefe, this is someone that
19 you knew and you had his information put into your phone as
20 far as a contact?

21 A Yes.

22 Q And on prior occasions when you had contacted or
23 specifically that morning when you had left the Waterfall
24 and you talked to him on the phone, you called him and who
25 answered?

1 You called the contact that you had as John O'Keefe,
2 correct?

3 A Yes.

4 Q Okay. And who answered the phone?

5 A John.

6 Q The contact that you had put in as John he called you
7 and you answered and who was on the other line?

8 A John.

9 MR. LALLY: Your Honor, may I approach?

10 THE COURT: Yes.

11 MR. LALLY: The Commonwealth seeks to
12 introduce and admit this as the next exhibit.

13 MR. JACKSON: No objection, your Honor.

14 THE COURT: Thank you. This is subject to
15 what we talked about at sidebar?

16 MR. LALLY: Yes.

17 MR. JACKSON: Yes, understood.

18 (Whereupon Exhibit No. 89, Extraction Report, was marked as
19 an exhibit.)

20 MR. LALLY: Your Honor, with respect to what's
21 now been marked as Exhibit 89 if I could, with the Court's
22 permission, publish that to the jury?

23 THE COURT: Yes.

24 (Exhibit No. 89 was published to the jury.)

25 Q Ms. McCabe, what's up on the screen, is that what you

1 have before you as that exhibit?

2 A Yes.

3 Q This is a text communication between yourself and Mr.
4 O'Keefe, correct?

5 A Correct.

6 MR. JACKSON: Your Honor, I'm sorry to do
7 this, may we approach briefly?

8 THE COURT: Sure. Why don't you take that
9 down, Ms. Gilman?

10 (Sidebar commences:

11 MR. JACKSON: I don't want to make this clunky again.
12 I don't have an objection. It's not redacted.

13 THE COURT: And I wasn't expecting this. Why don't we
14 just jump right into the text messages?

15 MR. JACKSON: Yeah, I thought --

16 THE COURT: Okay. I wasn't expecting the beginning.
17 She's already said these texts were between her and John
18 O'Keefe, and you missed a redaction, so if Ms. Gilman can
19 pull it up with the first bubble, for lack of a better
20 word.

21 MR. LALLY: Sure.

22 THE COURT: So I'm going to give you the opportunity to
23 just -- do you care --

24 MR. JACKSON: No.

25 THE COURT: -- if he crosses out the phone number right

1 here and now. It's at the very bottom there.

2 MR. LALLY: Just, Your Honor, for the record -- as far
3 as Ms. --

4 THE COURT: Hold on. Mr. Jackson, you need to hear
5 this.

6 MR. JACKSON: Sorry.

7 MR. LALLY: For the record, as far as the information
8 that's contained therein, Ms. McCabe has changed her phone
9 number as a result of --

10 THE COURT: It's the idea in general, not --

11 MR. LALLY: No, no, and I very much apologize. I
12 didn't realize that was still.

13 THE COURT: I don't think anybody thinks she did it
14 intentionally.

15 MR. JACKSON: No, not at all. I just wanted to be
16 respectful.

17 THE COURT: No, that's great. I appreciate it. So
18 we'll start right with ...

19 MR. LALLY: Okay.

20 end of sidebar.)

21 MR. LALLY: Thank you, Ms. Gilman.

22 Q So, Ms. McCabe, what's before you and what's upon the
23 screen as the exhibit there are sort of green bubbles and
24 blue bubbles, correct?

25 A Correct.

1 Q Can you tell the jury as far as who is communicating in
2 which direction as far as the green bubbles are who and the
3 blue bubbles are who?

4 A Green is John and blue is myself.

5 Q And so the first text from this particular date if we
6 could just read to the jury as far as from whom the message
7 is sent, what the content is and then what the timeframe
8 was?

9 A So John sent to me "where to" at 12:14.

10 Q If it will assist you if you have that in front of you?

11 A Okay.

12 Q You can look at that? The next bubble down is a blue
13 bubble, is that correct?

14 A Correct.

15 Q Similar to the one before it, can read as far as well,
16 before I get to that one you received that message from Mr.
17 O'Keefe did you call him and have a conversation and he
18 called you back for further conversation?

19 A Correct.

20 Q And then subsequent to that could you read the next
21 blue bubble down as far as from whom, what the content is
22 and what time it is?

23 A So this is from myself to John and it says, "Here" at
24 12:27, so at that point I see a car out front and I text
25 him "Here."

1 Q You testified to as far as looking out the front storm
2 door seeing the car and texting him, is that correct?

3 A Correct.

4 MR. LALLY: Ms. Gilman, if you could scroll
5 down to the next, please.

6 Q Ma'am, similar if you could just who sent this, what
7 the content and what it said?

8 A I sent to John, "Pull behind me" at 12:31.

9 Q And what were you referring to when you said "Pull
10 behind me?"

11 A So at this point the car had moved from the prior spot
12 from where I originally saw it so I thought, what is he
13 doing. Why don't they just pull behind me, you know, in
14 the driveway.

15 Q Scroll down and again, with this bubble if you could
16 read that.

17 A From me to John saying "Hello" and it was at 12:40.

18 Q At this point in time as far as, let me ask it this
19 way: When you're sending these text messages over these
20 periodic time periods what if anything are you doing sort
21 of --

22 A So I would go, I originally went to the front door, saw
23 the car, texted them, texted John, then I went back, kind
24 of sat at the table, just either threw my phone probably in
25 my back pocket. And then a couple of minutes later I got

1 up again and saw that the car had moved so I send the, you
2 know, the pull behind me and then a few minutes later I
3 went back to the window, to the front door, I'm sorry.

4 Q And when you went back to the front door what, if
5 anything, did you see at that point?

6 A So at this specific point at 12:40 when I say hello, I
7 cannot be certain whether they were still out front or if
8 they had left.

9 Q From any of these text messages that you sent what if
10 any response did you receive from Mr. O'Keefe after the --

11 A No.

12 MR. LALLY: Ms. Gilman, if you could, the next
13 bubble.

14 Q Again, what (indiscernible).

15 A Sure. Jen to John, where are you, and that was at
16 12:42.

17 Q And Ms. Gilman, the next bubble?

18 A Myself to John, "hello," at 12:45.

19 Q Now, this is later in the morning, and we'll get to
20 that a little bit more in a moment, but at some point you
21 left the residence at Fairview, you went home, and were
22 awoken by something and then at some point you texted John
23 later on that morning on the 29th?

24 A Yes.

25 Q And are these the next couple of text messages that you

1 sent at that point?

2 A Correct.

3 Q And if you could similar to the other ones read from
4 these as well.

5 A Myself to John, "Please answer," at 4:59.

6 Q Ms. Gilman, the next.

7 A Myself to John, "Karen is worried. We need to find
8 you," at 4:59.

9 Q Scroll down.

10 A Myself to John, "Please answer so I know you're okay,"
11 5:04.

12 MR. LALLY: Your Honor, may I approach just to
13 retrieve?

14 THE COURT: Yes.

15 Q Now, Ms. McCabe, I'm going to take you back to at the
16 house on Fairview. Again you're sending these text
17 messages and going back to the table and then going back to
18 the window at various times?

19 A To the front door.

20 Q To the front door, yes?

21 A Yes.

22 Q And at any point in time do you see anybody exit from
23 the dark SUV or the black SUV in front of the house?

24 A No.

25 Q And at any point in time did John O'Keefe come into the

1 house?

2 A No.

3 Q And at any point in time did John O'Keefe respond to
4 your text messages?

5 A No.

6 Q At any point in time did John O'Keefe call you?

7 A No.

8 Q Now, at some point subsequent to this have you had
9 occasion to look at your phone or at your call history?

10 A Yes.

11 Q And through review of that were you able to see phone
12 calls that your phone made to John O'Keefe's phone around
13 that same timeframe that you were texting him and going to
14 the door?

15 A Yes.

16 MR. LALLY: May I approach, your Honor?

17 THE COURT: Yes.

18 Q Ma'am, I'm showing you a four-page document and ask you
19 to look at that and look up when you're finished and if I
20 could suggest I think it starts in reverse order from page
21 4, timing wise, up through page 1.

22 Just generally speaking, ma'am, do you recognize
23 what's contained in that four-page document?

24 A I do.

25 Q And what do you recognize it to be?

1 A The calls between myself and John O'Keefe.

2 Q And am I correct that it starts in sort of a descending
3 order as far as the most earliest calls are on page 4, and
4 then the most recent are on the first page?

5 A Yes.

6 Q And the phone calls that you were testifying about
7 before as far as talking to him on the way from the
8 Waterfall to the residence at Fairview, do they appear in
9 those?

10 A They do.

11 MR. JACKSON: Objection, Your Honor. May we
12 approach, briefly?

13 THE COURT: Okay. May I have that please, Ms.
14 McCabe?

15 THE WITNESS: Sure.

16 (Sidebar commences:

17 MR. JACKSON: I want Ms. Little to hear this as well.
18 Your Honor, I waited until there was at least foundation to
19 establish that this witness is going to attempt to testify
20 from this document. I believe this document is a
21 partial --

22 THE COURT: If you want to take a look at it?

23 MS. LITTLE: This is from John O'Keefe's phone.

24 THE COURT REPORTER: Is this on the record?

25 THE COURT: Yes, it is. You have to -- hold on.

1 Please don't speak to each other. You've had an
2 opportunity to look at this, and what did you want to say,
3 Ms. Little.

4 MS. LITTLE: This is from John O'Keefe's phone. It's
5 not from Ms. McCabe's cell phone.

6 MR. JACKSON: That was the confusion. I don't know
7 that she has the foundation to establish that these are
8 actually her calls this is given the fact that these are on
9 her records. I've never seen her cross-examined on John
10 O'Keefe's records. She's always been cross-examined on her
11 own records, so that's my objection.

12 THE COURT: Do you have any reason to believe they're
13 different?

14 MR. JACKSON: Yes, they are different significantly.

15 MR. LALLY: They can't. I took them from Mr. O'Keefe's
16 extraction. I think she can authenticate -- if counsel
17 wants to ask if there are additional calls or show
18 additional calls, certainly he can do that, but what I'm
19 looking for is just these are the phone calls around the
20 time. I'm not looking to publish them. I'm just looking to
21 talk about when the first call was and when the last call
22 was.

23 MR. JACKSON: I'll withdraw the objection. It appears
24 that we've got the other side of these which is going to
25 allow me to use in cross.

1 THE COURT: You probably have both.

2 MR. JACKSON: We have both, right. Thank you.

3 THE COURT: Okay.

4 end of sidebar.)

5 MR. JACKSON: Your Honor, for the record we'll
6 withdraw the objection.

7 THE COURT: Okay.

8 Q Ms. McCabe, as far as the first call you were
9 testifying about when you spoke to Mr. O'Keefe on the way
10 from the Waterfall to the residence at Fairview are those
11 contained within those calls?

12 A Yes.

13 Q As far as is there a time associated with those calls
14 that you observed on that four-page document?

15 A Yes.

16 Q And what are they?

17 A 12:14 and 12:18.

18 Q Turning your attention to page 1 that would be sort of
19 the last in line there, what time is the last call between
20 yourself and Mr. O'Keefe and who is calling?

21 A I am calling him at 5:25.

22 MR. LALLY: May I approach, your Honor?

23 THE COURT: Yes.

24 MR. LALLY: The Commonwealth seeks to
25 introduce this as the next exhibit.

1 THE COURT: Any objection?

2 MR. JACKSON: There's no objection, your
3 Honor. Thank you.

4 (Whereupon Exhibit No. 90, Extraction Report, was marked as
5 an exhibit.)

6 Q Now, Ms. McCabe, you had mentioned that during the
7 course of the evening shortly after you arrived at the
8 residence at Fairview you observed a vehicle outside of
9 your sister's house, correct?

10 A Yes.

11 MR. LALLY: And your Honor, with the Court's
12 permission I would ask to publish with this witness
13 Exhibits 71, 72, and 73?

14 THE COURT: Okay.

15 (Exhibit Nos. 71, 72 nad 73 were published to the jury.)

16 Q And Ms. McCabe, first and foremost what's up on the
17 screen is Exhibit 71, do you recognize that?

18 A I do.

19 THE COURT: Okay, I think you can just go right to what
20 you want her to identify, please, Mr. Lally.

21 Q Ms. McCabe, in front of you on the desk there should be
22 a laser pointer just click on the button and point at the
23 screen and if I could ask if you could direct, well, first
24 and foremost, with respect to this photograph do you
25 observe in this photograph where you first saw the black

1 SUV in front of the house?

2 A It was directly if I was staring out the front door.
3 This angle is kind of unique to see it, but if you go from
4 the front door directly straight out so maybe the edge. Do
5 you understand what I'm saying?

6 Q Using that to direct the jury's attention?

7 A So if there's the front door and I look straight out.
8 But the perception is almost like a side view, it's not
9 straight on so it could have been a little bit over here.

10 THE COURT: Mr. Lally, why don't you show
11 another picture if this one isn't helpful.

12 MR. LALLY: Ms. Gilman, if I could have
13 Exhibit 72.

14 Q Is it visible in this photograph?

15 A Yes, so it would be follow this and just kind of
16 straight.

17 Q And lastly, Exhibit 73. Now, Ms. McCabe you testified
18 that at another point you come to the front door and you
19 observe the vehicle in a different spot, correct?

20 A Correct.

21 Q And if you could again using the laser pointer just
22 direct the jury's attention to where in this photograph, if
23 at all, you observed where the vehicle was the second time?

24 A It was right about right near the flagpole.

25 MR. LALLY: Thank you. Ms. Gilman, you can

1 take that down.

2 Q Now, turning your attention to back in the home at some
3 point you indicated you looked out and didn't see the black
4 SUV there anymore?

5 A Correct.

6 Q And what was your thought as far as where John was or
7 where John had gone at that point?

8 A At that point I thought maybe they decided not to come
9 in, maybe they got into an argument or maybe (c) had
10 called.

11 Q Did you think much of it at that point?

12 A No.

13 Q Now, you leave the home around what time?

14 A Approximately 1:30, between, roughly 1:30-1:45.

15 Q And when you leave, who, if anyone, goes with you?

16 A So it's myself, my husband Matt, and I had offered --
17 well, when Julie Nagel's brother had come to the house
18 earlier I had offered Julie and Sarah Levinson a ride home
19 because we had just gotten there and they wanted to stay
20 later so I also drove home Julie and Sarah -- well, my
21 husband drove them home.

22 Q So you exit the house, go out to the vehicle, correct?

23 A Correct.

24 Q And your husband, Matt, was driving?

25 A Yes.

1 Q Where are you seated in the car?

2 A In the front seat.

3 Q And do you recall where Ms. Levinson and Ms. Nagel were
4 seated in the car?

5 A They were in the back seat.

6 Q Do you recall which one was on which side?

7 A I do not.

8 Q And when you come out of the house and you're starting
9 to go home what if anything had changed as far as the
10 weather from when you had gone in to when you had come out?

11 A The snow had, you know, accumulated more.

12 Q When you get into the vehicle and as the vehicle is
13 pulling away what if any conversation do you recall having
14 with anyone in the car?

15 A When I got in the car I kind of turned around to
16 Julie --

17 MR. JACKSON: Objection.

18 THE COURT: I'm going to allow this subject to
19 -- the portion that's relevant. Go ahead.

20 A I turned around and was facing them and talking to them
21 and I believe Sarah Levinson had laughed or made a joke
22 because I had bread or something in my car and we made a
23 joke about that. I had had my niece earlier that week for
24 the week so I had brought stuff in the car because I was
25 driving her from one of my kid's sporting events to the

1 next.

2 Q Do you recall which direction or did you observe which
3 direction your husband, Matt, exited from the residence on
4 Fairview and by that I mean did he head towards Chapman or
5 did he head towards Cedarcrest?

6 A Chapman.

7 Q As far as, I know I may not have asked this before but
8 as far as the black SUV that you observed in front of the
9 house which direction was that vehicle facing?

10 A Chapman.

11 Q Each of the times that you saw it?

12 A Yes.

13 Q With that vehicle as with the one that your husband was
14 driving which side of the vehicle would have been closest
15 to the house on Fairview?

16 A Passenger.

17 Q Now as you're driving past the house heading towards
18 Chapman how are you positioned within the car?

19 A I'm turned chatting to the girls.

20 Q And when you're turned are you turned towards the
21 window or are you turned towards the console, which way are
22 you turned?

23 A Turned to the console towards the back seat so my back
24 is to the window.

25 Q Either of these girls, did you know where they lived?

1 A No.

2 Q Do you recall whether or not you found their homes by
3 way of GPS or was it just sort of verbal directions?

4 A I'm assuming they just gave Matt directions to where
5 they lived.

6 Q So you drop each of them off, do you recall which order
7 they were dropped off in?

8 A Julie then Sarah.

9 Q And then following and dropping off Sarah where did you
10 and your husband go?

11 A Home.

12 Q This whole trip sort of from Fairview to dropping off
13 Ms. Nagel, Ms. Levinson and then going home about how long
14 a period of time is that?

15 A It could be 20 to 30 minutes. Approximately 20
16 minutes. I'm not exactly sure.

17 Q You arrived sometimes after 2:00 a.m., is that correct?

18 A Yes.

19 Q And when you and your husband Matt got home you went
20 inside the house and what did you do?

21 A I went upstairs to bed.

22 Q And at some point did your husband come up, as well?

23 A He did.

24 Q Was it a long period of time between when you arrived
25 home and when your husband came up?

1 A I don't think too long. I think he had like some
2 cheese or something because he was on a crazy diet and then
3 he came upstairs.

4 Q Now, did you go right to sleep or what, if anything,
5 did you do when you went up to bed?

6 A I asked him to watch a show. He said no, he was going
7 to fall asleep, which he does usually immediately and I
8 went on my phone.

9 Q What if anything do you recall doing on your phone as
10 far as going on it?

11 A I was researching. My husband and I did briefly talk.
12 My daughter had gotten an offer to play on a club --

13 MR. JACKSON: Objection.

14 THE COURT: Just tell us what you were doing,
15 please.

16 THE WITNESS: Sure. I was researching a
17 basketball team, and I believe I also texted my sisters,
18 and I texted in a group chat with my husband and another
19 individual.

20 Q Now, if I could just turn your attention back to when
21 you were at the house on Fairview that evening and I
22 believe this is the last time, I apologize for the back and
23 forth but when you were there what if any videos or any
24 music or anything did you pull up on your phone to share
25 with the group that you were there with?

1 A So one of my sisters loves this song "Raining Men", and
2 she always -- well, not always, maybe every once and a
3 while she has a little too much to drink and takes out an
4 umbrella and sings and dances, and it's like a big family
5 joke. And my other nephew had previously been over and
6 showed me the video from whenever, I don't know if it's the
7 1970s that's "Raining Men". So I just was playing it
8 showing my other nieces and nephews and we were just like
9 laughing because they all have umbrellas and it's
10 something, it's like an inside family joke so I played that
11 I think a couple of times.

12 Q So after you get home and you're looking at the
13 basketball program and things of that nature what if
14 anything else did you do before you went to bed, or went to
15 sleep, I should say?

16 A Nothing. I possibly could have gotten up to go to the
17 bathroom. I do that almost every night.

18 Q Now at this time you had an iPhone, is that correct?

19 A Yes.

20 Q Did you also have an Apple watch?

21 A I did, yes.

22 Q Do you recall whether or not you were wearing the Apple
23 watch that evening or when you went to bed or anything like
24 that?

25 A I do not recall.

1 Q And as far as the Apple watch is concerned is that
2 something that you routinely or always take off before you
3 go to bed or not?

4 A Mostly, but not always. I mean, there are times I go
5 to bed with it on. More often than not I take it off but
6 there are times when I do sleep with it.

7 Q And with respect to this particular evening do you
8 recall whether you had it on or whether you took it off or
9 even had it on at all that night?

10 A I don't recall if I had it on that night.

11 Q Coming back to that last exhibit as far as the phone
12 calls were concerned were there certain phone calls that
13 you made to Mr. O'Keefe's phone around the time that you
14 were observing the vehicle outside?

15 A Yes.

16 Q And do you recall making any phone calls to Mr. O'Keefe
17 at that time?

18 A I don't.

19 Q Fair to say that at no point while you saw the vehicle
20 outside you didn't have any conversation with Mr. O'Keefe?

21 A I didn't.

22 Q Now you go to sleep and at some point later on in the
23 morning you wake up, correct?

24 A Correct.

25 Q And what is it that wakes you up and when about was

1 that?

2 A I was woken up to my phone ringing.

3 Q And do you know what time it was?

4 A 4:53.

5 Q According to your phone who was calling you at 4:53?

6 A John's niece.

7 Q So that would be John's niece, (C), is that correct?

8 A Correct.

9 Q And how old was she at this time?

10 A I believe she was 14.

11 Q And she has just gotten into Bishop Feehan, correct?

12 A Correct.

13 Q She was in eighth grade, finishing up her eighth grade
14 year of middle school, is that correct?

15 A Yes.

16 Q Is that a normal thing that (C) would be calling you
17 at 4:53 in the morning on Saturday?

18 A No.

19 Q Do you answer the call, is that correct?

20 A Yes.

21 Q When you answer the call who if anyone is initially on
22 the other end?

23 A Initially it's (C).

24 Q And what if anything did (C) say to you?

25 A That John didn't come home and Karen wanted to talk to

1 me.

2 Q And even in that initial call when you're speaking to
3 (C) what if anything do you hear sort of in the
4 background when you're talking?

5 A Karen screaming.

6 Q Could you hear what she was screaming?

7 A She was just screaming, you know, Jen, Jen.

8 Q Fairly loudly, is that correct?

9 A Extremely.

10 Q Now at some point does the defendant get on the phone
11 with you?

12 A She does.

13 Q What if any conversation do you have with her at that
14 point?

15 A She proceeds to scream my name multiple times and she
16 tells me that John didn't come home, they got into a fight
17 and that she left him at the Waterfall.

18 Q And how do you respond?

19 A I had just woken up. I was confused. I didn't know
20 what she was talking about. I was trying to, like what,
21 what are you talking about and she had told me they had
22 gotten into a fight and she left him there and now where is
23 he and she just kept screaming my name over and over and so
24 then I remembered that Chris Albert had still been at the
25 bar so I thought well, maybe John walked home with Chris

1 because Chris lives close to the Waterfall.

2 Q At some point that conversation ended and you recall
3 how that ended?

4 A I told her that I was going to call Julie and see if
5 John had ended up with Chris.

6 Q So you hang up with her and then what did you do next?

7 A I called Julie Albert.

8 Q Did Julie pick up the phone?

9 A She did not.

10 Q And as you were calling Julie did you have any
11 conversation with your husband, Matt, around that time?

12 A Yes, he, you know, had kind of shot up out of bed when
13 Karen had called, well, when (C) had called because
14 Karen was screaming and then he was, what's going on, and I
15 said, well, I'm calling Julie because Karen, they got into
16 a fight and I was trying to explain it to him and he said,
17 what are you talking about, we saw them outside of your
18 sister's house and at that point I hung up.

19 Q And when you hung up Julie had not answered yet, is
20 that correct?

21 A Correct.

22 Q Now as far as Ms. Read, is that someone who has your
23 phone number, did you have her plugged into your phone as a
24 contact before that date of January 29th?

25 A No.

1 Q You never had any kind of conversation with her over
2 the phone as far as a text or a phone call or anything, you
3 didn't even have her information?

4 A Correct.

5 Q And so after hanging up while calling Julie, what if
6 anything did you do next?

7 A And then I'm not sure if I called (c) back or if
8 (c) called me back.

9 Q At some point you get back in touch with (c) or at
10 least your phone, correct?

11 A Yes, I get in touch with Karen again and I say, Karen,
12 we saw you outside of my sister's.

13 Q What was her response to that?

14 A She told me that she didn't remember going there and
15 then she started yelling, Jen, Jen, and then she was
16 saying, Did I hit him? Could I have hit him? And then she
17 proceeded to say she had a cracked taillight.

18 Q And this is while you're still in your home and you're
19 in your bed, correct?

20 A Correct.

21 Q And what was your response to that?

22 A I thought she was honestly like just talking crazy and
23 then she said, Oh, my God, I left him there, like she was
24 extremely irrational. She told me again that they had
25 gotten into a fight so now she was just kind of all over

1 the place.

2 Just screaming. She was very hard to
3 understand, so my brain started going well, okay, if she
4 left him there where could he be? Who could he be with?

5 Q And as you're going through that sort of process what
6 did you do next?

7 A So then earlier in the night there was another
8 individual who we had been in contact with or my husband
9 had been talking to and he had mentioned that he was going
10 to meet up with John at Waterfall, as well, but he never
11 ended up coming.

12 I knew he was at a house close to Fairview so
13 I thought well, maybe if they got into a fight like John
14 might have texted this individual and maybe he just ended
15 up on his couch.

16 Q Who was that individual?

17 A Tom Beatty.

18 Q Who is Tom Beatty in relation, how did you know him?

19 A He has two daughters that are the same age as my
20 daughters.

21 Q Is one of those daughters at least around the same age
22 as (C)?

23 A Yes.

24 Q So based on sort of that thought process and what you
25 knew what did you do next?

1 A So then I start calling Tom.

2 Q And at any point in time that you call Tom did Tom pick
3 up the phone, did you speak with him?

4 A He did not.

5 Q And so following that what did you do?

6 A So I know at some point I was calling, starting to call
7 John, my husband was, as well. At that point I get up and
8 I'm like, well, we've got to go out and look for him and in
9 my head I'm thinking I'll drive over to Tom's and maybe
10 he's there.

11 I then go downstairs. Matt gets up. He's
12 starting to get dressed. I go downstairs. I make a coffee
13 and I'm not sure how much time passed but then all of a
14 sudden I hear screaming out front.

15 Q Now if I could just take you back for a second?

16 A Uh-huh.

17 Q As far as the decade or so that you had known and been
18 friends with John O'Keefe, with either his niece or his
19 nephew both home, is his not coming home, is that something
20 that had ever happened before or something you were ever
21 aware of before?

22 A I was never --

23 MR. JACKSON: Objection.

24 THE COURT: Ask it differently.

25 Q Have John ever gone out at night and then not come home

1 when the

2 kids --

3 MR. JACKSON: Objection.

4 THE COURT: I'm going to allow it.

5 A Not to my knowledge, no.

6 Q So at some point you make your way downstairs, is that
7 right?

8 A Correct.

9 Q And what, if anything, did you hear once you went
10 downstairs?

11 A Screaming.

12 Q And where was the screaming coming from?

13 A Out front.

14 Q When you heard that screaming where did you go?

15 A I ran to my front door.

16 Q At some point did you open your front door?

17 A I opened my front door, correct.

18 Q And then what did you see when you opened the front
19 door?

20 A Ms. Read came running up my walkway.

21 Q And prior to during any of the other conversations that
22 you had had with Ms. Read did you know where she was when
23 you were talking to her?

24 A No.

25 Q Obviously, the first call was (C) calling from the

1 house, is that a fair assumption?

2 A Yes, uh-huh.

3 Q And then something --

4 THE COURT: The uh-huh, is that a yes or a no?

5 THE WITNESS: Yes.

6 Q And as far as the second call that you were talking
7 about do you know where she was when she was talking to you
8 next?

9 A The first couple calls I know she was at the house and
10 then I don't know.

11 Q Was opening your door and hearing or screaming from out
12 front, was that something that surprised you?

13 A Yes.

14 Q And when you hear the screaming if you could you
15 explain to the jury how loud was the screaming that you
16 could hear?

17 A Very loud.

18 Q And what, if anything, was she saying at this point?

19 A It was more of the Jen, Jen, Did I hit him and then she
20 would yell, Did I hit him? Could I have hit him? And then
21 she was yelling, We have to go to Fairview.

22 Q And in addition to Ms. Read what if anything else did
23 you see when you opened up the door?

24 A Just --

25 Q Let me ask it a better way.

1 A Yes.

2 Q Did you see a vehicle?

3 A Yes.

4 Q And where was the vehicle and what did the vehicle look
5 like?

6 A It was in my driveway. I believe the driver door was
7 left open.

8 Q And what kind of vehicle was it?

9 A A black Lexus.

10 Q Consistent with what you had seen outside of Fairview
11 earlier in the morning?

12 A Yes.

13 Q She's coming up your walk towards your front door?

14 A Running, yes.

15 Q And then what if any conversation did you have with her
16 there in reference to that?

17 A I just said Karen, Karen, you know, I was trying to
18 calm her down. Matt came, I believe, and was yelling down
19 that she was going to wake up the neighborhood and then she
20 was yelling that we had to go to Fairview so I told Matt
21 that I was going to go with Karen.

22 Q Initially before that what were your plans as far as
23 going to look for John before Ms. Read showed up at your
24 house?

25 A My husband and I were going to go to Tom Beatty's.

1 Q Now, once you decided that now you're going with Ms.
2 Read, the defendant, where did the two of you go?

3 A So as we walked out there was, a car pulled up and then
4 a plow.

5 Q Did you recognize the car that pulled up?

6 A No.

7 Q I'm sorry, I interrupted. So a car pulls up and then
8 the plow and then what happens?

9 A So in the car was Kerry Roberts and so she kind of
10 rolled down the window and was like, Karen what are you
11 doing and then the plow was behind her so Kerry pulled up
12 and she, I believe, Karen, I told Karen that I was going to
13 drive her car because I didn't want her driving because she
14 was hysterical, so we got in her car and then Kerry Roberts
15 called Karen and then Karen was screaming and you know,
16 saying that she had cracked her taillight, we need to go to
17 Fairview, Could I have hit him, Did I hit him, and then she
18 would just scream our names.

19 Kerry was telling her to shut up that we
20 needed to just go back to John's and we'll drive in one car
21 and let's go to John's. Maybe he's there and he's passed
22 out and you didn't see him.

23 Q Now, when you open up the door initially and you come
24 outside and you see the defendant out there screaming and
25 all of that again, with respect to the weather what was the

1 weather at that point?

2 A It was like dark and it was almost like a white out.

3 Q And so you get into Ms. Read's vehicle, correct?

4 A Yes.

5 Q And you're driving that vehicle from your house to
6 Meadows Ave., is that correct?

7 A Yes.

8 Q That's Mr. O'Keefe's house?

9 A Yes.

10 Q You're familiar with that residence, you'd been there
11 plenty of times before?

12 A Yes.

13 Q Now with respect to Kerry Roberts, did you know Kerry
14 Roberts prior to this morning of January 29th?

15 A I had met her once before.

16 Q And can you describe to the jury sort of the
17 circumstances of that or how you knew her prior to January
18 29th?

19 A Back, way back when after John's sister and brother-in-
20 law died I would have (c) a lot and Kerry would have
21 (c) and one day John said I get a discount at Reebok.
22 I'm going to take you guys for sneakers. Get all your
23 kids' sizes.

24 So he took Kerry and myself and we went to
25 Reebok and bought sneakers for all my girls and me and then

1 he took Kerry and I to the Hillside for lunch just to thank
2 him (sic) for you know, helping, because that's what he
3 did.

4 Q Now, was Kerry Roberts someone that you had as a
5 contact saved in your phone, had you ever texted her or
6 called her, talked to her over your phone before?

7 A No.

8 Q So you indicated that Ms. Roberts then called Ms.
9 Read's phone while you were in Ms. Read's car, correct?

10 A Yes.

11 Q Now as far as that, Ms. Read's phone, was that similar
12 to your phone, earlier in the morning was that hooked up in
13 any way or matched or pared with the vehicle that you were
14 driving?

15 A Yes.

16 Q Fair to say you hear both sides of the conversation as
17 far as Ms. Read talking next to you and then obviously Ms.
18 Roberts on the other end?

19 A Yes.

20 Q So the conversation that you were talking about as far
21 as Ms. Roberts saying shut up and we're going to Meadows
22 Ave and all of that, you could hear Ms. Roberts saying
23 that?

24 A Yes.

25 Q Now the vehicle when you get into the defendant's

1 vehicle she pulled in straight into your driveway, is that
2 correct?

3 A Yes.

4 Q So fair to say you had to back out of the driveway, is
5 that correct?

6 A Correct.

7 Q Now when you were operating Ms. Read's vehicle in
8 reverse what if anything showed up in sort of the center
9 console area of that vehicle?

10 A I do not remember. I don't know.

11 Q Do you recall anything as far as a camera or anything
12 like that?

13 A I don't remember; I don't remember.

14 Q You backed the vehicle out of the driveway?

15 A Uh-huh.

16 Q You proceed to Meadows Ave., correct?

17 A Yes.

18 Q How long a drive is it from your house to Mr. O'Keefe's
19 house?

20 A Approximately five, six minutes.

21 Q When you get to Mr. O'Keefe's house where do you park?

22 A I pull in straight in the driveway.

23 Q After you pull into the driveway at some point you all
24 get out, correct?

25 A Yes.

1 Q Do you recall who pulled in first as far as who was in
2 front of who on the way to Meadows, yourself or Ms.
3 Roberts?

4 A I believe I was in front.

5 Q You would have pulled into the driveway and parked and
6 Ms. Roberts would have pulled in and parked behind you,
7 correct?

8 A Yes.

9 Q So after the three of you get out of your respective
10 vehicles what happened next?

11 A Karen brings us to the back of the car and she says,
12 "Look, see, I have a cracked taillight."

13 Q Where on the vehicle was she directing yourself and Ms.
14 Roberts' attention?

15 A The back right.

16 Q So the passenger's side rear part of the vehicle?

17 A Yes.

18 Q And when you looked at that area of the vehicle what
19 could you see at that point?

20 A I saw that there were missing pieces but there was also
21 snow covering it and Karen was screaming, "Look, look" and
22 then Kerry was screaming back at her. It was very chaotic
23 so I didn't stare in depth but what I can tell you is there
24 were missing, I saw missing pieces from the taillight.

25 Q Then at some point about how long a period of time is

1 that that you're out in Mr. O'Keefe's driveway looking at
2 the cracked taillight?

3 A Not long because then Kerry is, you know, yelling at
4 her telling her that she's crazy and she was driving around
5 drunk and she could have hit anything and kind of rushes us
6 to go into the house to look in there for John.

7 MR. LALLY: Your Honor, with the Court's
8 permission I would ask if I could publish on the screen
9 what's been marked as Exhibit No. 2?

10 THE COURT: Okay.
11 (Exhibit No. 2 was published to the jury)

12 Q And Ms. McCabe, do you recognize what's up on the
13 screen?

14 A I do.

15 Q What is that?

16 A That is Meadows Ave, John's house.

17 Q By the way as you talked about as far as where you
18 pulled in that's not visible in the photograph, correct?

19 A Correct.

20 Q Facing John O'Keefe's house on Meadow which side of the
21 photograph would the driveway be, to the left or the right?

22 A The right.

23 MR. LALLY: And your Honor, may I approach?

24 THE COURT: Yes.

25 Q I'm just showing you another photograph. I ask you to

1 look at that. Look up when you're finished.

2 A Okay.

3 Q Do you recognize what's in that photograph?

4 A Yes.

5 Q What do you recognize it to be?

6 A That's John's car.

7 Q And where is John's car in relation to John's house?

8 A It's parked to the side of the driveway.

9 Q And you also see sort of the garage area in that
10 photograph?

11 A Yes.

12 MR. LALLY: Your Honor, may I approach?

13 THE COURT: Yes.

14 MR. LALLY: The Commonwealth would seek to
15 introduce and admit as the next exhibit.

16 MR. JACKSON: No objection.

17 (Whereupon Exhibit No. 91, Photograph, was marked as an
18 exhibit.)

19 MR. LALLY: Your Honor, with the Court's permission if
20 I could just publish that to the jury now, as well.

21 THE COURT: Okay.

22 (Exhibit No. 91 was published to the jury.)

23 Q Now, Ms. McCabe, with reference to what is up on the
24 screen is that the photo that you just had up before you?

25 A Yes.

1 Q And there's two garage doors on the house at 1 Meadows
2 Ave, correct?

3 A Correct.

4 Q There's a left and a right section, fairway?

5 A Yes.

6 Q You've been inside the O'Keefe house a number of times,
7 is that correct?

8 A Yes.

9 Q Now with respect to the garage door on the left what
10 was contained within that part of the garage?

11 A His old fashioned car.

12 Q The one that (C) didn't like?

13 A Yes.

14 Q On the right side of the garage what if anything was in
15 there?

16 A It's pretty open.

17 Q How would you describe Mr. O'Keefe as far as how he
18 kept things around his house, either in the house or the
19 lawn or things around it?

20 A John was very meticulous. Everything had its place.

21 Q Now when you arrived there on the morning on the 29th
22 Mr. O'Keefe's vehicle wasn't parked in that -- correct?

23 A Correct.

24 Q From the outside of the residence were you aware of
25 there being any sort of security cameras or anything

1 affixed to the house of 1 Meadows Ave at that time?

2 A Yes.

3 Q And how were you aware of that?

4 A John told us he was, I remember years prior, I believe,
5 he came over and he was so excited that he had gotten Ring
6 and he would always show us it. He just was always
7 watching.

8 Q And when he would show you that how would he show you
9 that, on what kind of device?

10 A On his phone.

11 Q So he had the Ring application hooked up to his cell
12 phone?

13 A Yes.

14 Q Now with respect to that morning when you arrived if
15 you could, using the laser pointer just sort of delineate
16 for the jury whereabouts you had parked Ms. Read's vehicle
17 when you pulled in --

18 A So it would be right there because John's car was
19 further over.

20 Q Mr. O'Keefe's car was further over towards the fence?

21 A Towards the fence, yes.

22 Q And so when you arrived there you're looking at the
23 taillight and then at some point you go into the house,
24 correct?

25 A Correct.

1 Q How did you get into the house that morning if you
2 recall?

3 A The right garage door was open.

4 Q Now, is that something normal when you get to Mr.
5 O'Keefe's house that the garage door was open in a
6 snowstorm?

7 A No.

8 Q And so you go in through the garage door and then you
9 go into the house, correct?

10 A Yes.

11 MR. LALLY: Ms. Gilman, you can take it off.

12 Q So Ms. McCabe, if you could sort of describe to the
13 jury sort of, when you come in through that right garage
14 door and you start to go into the house what is it when you
15 see when you first come into the house and what is sort of
16 the layout of Mr. O'Keefe's house?

17 A You walk in from the garage and there's a mud room.

18 Q And typically when you would walk into Mr. O'Keefe's
19 house what if anything would you or anyone else do why they
20 walked into his house?

21 A Take off your shoes.

22 Q And why was that?

23 A He didn't want dirt or that morning snow probably
24 getting all over his house.

25 Q So that was a pretty well-known rule for anybody who

1 spent time any at his house on Meadows Ave?

2 A Yes.

3 Q So when you and Ms. Roberts and Ms. Read walked into
4 the home that morning into the mud room, what did you do,
5 what did Ms. Roberts do? What did Ms. Read do?

6 A I took off my boots or shoes, whatever I had on. Kerry
7 Roberts took off, Karen just ran straight in the house.

8 Q You and Ms. Roberts both took off your shoes, Ms. Read
9 then just walked in the house with boots or shoes or
10 whatever she was wearing?

11 A Yes.

12 Q And then once you get into the house where is it that
13 the three of you went respectively once you got in?

14 A We all dispersed. I looked in the TV room where there
15 is a couch. Then I kind of walked through a dining room
16 and then I peeked into a living room.

17 I went upstairs. I looked in John's room.
18 Kerry was also running around different rooms and then I
19 went into (C)'s room.

20 Q And during this time when you and Ms. Roberts are sort
21 of going around room-to-room what was the defendant doing?

22 A I'm not sure.

23 Q Did you see her doing the same thing that you were
24 doing?

25 A No.

1 Q Now with respect to when at least you peeked into
2 John's bedroom is that right?

3 A Yes.

4 Q What if anything did you note about the bed when you
5 looked in?

6 A It was made.

7 Q And so then you go into (C)'s room and check on her,
8 correct?

9 A Yes.

10 Q And at any point in time did you see (C) at any
11 point?

12 A No.

13 Q Were you aware of where (C) was or did you know at
14 that point?

15 A At that point, I believe (C) told me he was at a
16 sleepover.

17 Q So you have some conversation with (C), is that
18 right?

19 A Yes.

20 Q And about how long a conversation did you have with
21 (C) that morning?

22 A Probably about a few minutes.

23 Q And when you left from (C), what is it that you said
24 to her as you were leaving?

25 MR. JACKSON: Objection.

1 THE COURT: I'll allow it.

2 A I promised (c) -- I promised (c) that I would
3 find John and everything was going to be okay.

4 Q So after that, where did the three of you go from
5 there?

6 A After that, the three of us got in the car and then
7 drove to Fairview.

8 Q And when you say you got into the car, which car did
9 you get into?

10 A Kerry's.

11 MR. LALLY: Your Honor, may I approach?

12 THE COURT: Yes.

13 Q Again, showing you two photographs. Again, if you
14 could just look at those and look up when you're finished.
15 Do you recognize what's in those photographs?

16 A Yes.

17 Q And what do you recognize those to be?

18 A The defendant's vehicle.

19 MR. LALLY: Your Honor, may I approach?

20 THE COURT: Yes.

21 MR. LALLY: Your Honor, the Commonwealth would
22 seek to introduce these as the next two exhibits.

23 MR. JACKSON: No objection, your Honor. Thank
24 you.

25 THE COURT: Okay.

1 (Whereupon Exhibit No. 92, Photograph, was marked as an
2 exhibit.)

3 (Whereupon Exhibit No. 93, Photograph, was marked as an
4 exhibit.)

5 MR. LALLY: Your Honor, with the Court's permission if
6 I could publish those to the jury, as well?

7 THE COURT: Uh-huh.

8 (Exhibit Nos. 92 and 93 was published to the jury.)

9 Q Now, Ms. McCabe, what's depicted in this photograph is
10 the defendant, Ms. Read's vehicle, correct?

11 A Correct.

12 Q And in sort of focus here is the right rear passenger's
13 side of that vehicle, correct?

14 A Correct.

15 Q The taillight, if you could with the laser pointer just
16 to direct the jury's attention where you observed that?

17 A (Witness complies.)

18 Q Now, ma'am, with respect to what's depicted in this
19 photograph as far as any damage that you observed to the
20 taillight on the rear passenger's side is that consistent
21 with what you observed in the driveway at 1 Meadows Ave.
22 when the defendant was showing you?

23 A Correct, minus the snow, et cetera.

24 MR. LALLY: Ms. Gilman, if I can have the next
25 exhibit.

1 Q And again, do you recognize what's depicted in the next
2 photograph?

3 A Yes.

4 Q And this is essentially a closer image of that same
5 rear passenger rear taillight is that correct?

6 A Yes.

7 Q Again, what's depicted in this is that consistent what
8 you observed minus it encased in snow when you were in the
9 driveway at Mr. O'Keefe's house on the morning of January
10 29th?

11 A Yes.

12 MR. LALLY: Thank you. Ms. Gilman, you may
13 take that down and your Honor, with the Court's permission
14 I would ask to publish just a short portion of, actually,
15 I'm sorry, if I could publish a portion of what's been
16 marked as Exhibit 6 which is the Ring camera from the
17 driveway?

18 THE COURT: Okay.

19 MR. LALLY: Ms. Gilman, if I could have video
20 No. 154 from the driveway.

21 (Portion of Exhibit No. 6 was published to the jury.)

22 Q Ms. McCabe, directing your attention now on the screen
23 what's been marked as Exhibit 6 or the video from Exhibit 6
24 do you recognize what's depicted in this video?

25 A I do.

1 Q What do you recognize it to be?

2 A That's myself getting out of the car at Meadows Ave.

3 Q Is that essentially where you parked Ms. Read's vehicle
4 when you pulled in?

5 A Yes.

6 Q If you could just direct the jury's attention with the
7 laser pointer as to where Ms. Read's vehicle is that you
8 parked and if you see Ms. Roberts' vehicle?

9 A That is Ms. Read's and that would be Ms. Roberts'.

10 Q As far as the right garage door that you entered in the
11 house, if you could direct the jury's attention to -- I
12 know it's not on the video but where would it be in
13 respect --

14 A I walked straight.

15 MR. LALLY: Ms. Gilman, if you could run this in its
16 entirety.

17 (Portion of Exhibit No. 6 was played.)

18 Q Ms. McCabe, what was depicted in that video is that
19 consistent with what you observed the weather conditions to
20 be around the time you arrived at Mr. O'Keefe's house?

21 A Yes.

22 MR. LALLY: And lastly in this line, your Honor,
23 if I, with the Court's permission could I publish a very
24 short portion of what's been marked as Exhibit No. 41?

25 THE COURT: Okay.

1 MR. LALLY: Ms. Gilman, if I could ask you to
2 forward this to about two hours and ten minutes, if you
3 could play -- stop here.

4 (Portion of Exhibit No. 41 was published to the jury.)

5 Q Again, what's in this video, do you recognize that, Ms.
6 McCabe?

7 A Yes, I do.

8 Q What is that?

9 A That is John's house.

10 MR. LALLY: Ms. Gilman, if you could play it
11 from there. Ms. Gilman, if you could stop.

12 Q Now, what's depicted in this video sort of the screen
13 directly in front of you do you recognize what that is?

14 A Yes.

15 Q What do you recognize that to be?

16 A John's driveway.

17 Q What if anything do you observe in John's driveway?

18 A John's car and Karen's car.

19 Q And where, if you could, using the laser pointer just
20 direct your attention to the defendant's car and where --

21 A Mr. O'Keefe's car and the defendant's.

22 Q Where you observe the defendant's car to be is that
23 essentially where you parked it at that time?

24 A Yes.

25 MR. LALLY: Your Honor, may I have a moment?

1 THE COURT: Okay.

2 MR. JACKSON: May we have just a moment, your
3 Honor?

4 THE COURT: Sure. I'll see counsel at
5 sidebar.

6 (Sidebar commences:

7 THE COURT: I appreciate it looks like cooperation
8 between the two of you. I don't think the jury would mind
9 a five minute break while you get this stuff done.

10 MR. JACKSON: The problem is I just realized he's got
11 to have software on his computer to do it it'll work.

12 MR. LALLY: Okay.

13 THE COURT: Do you have this on your computer?

14 MR. JACKSON: Not ready and available. It may take us a
15 few minutes to find it.

16 THE COURT: I can give them a break. If you don't want
17 me to, I won't, but.

18 MR. YANNETTI: Do you have this as USB?

19 MR. LALLY: It's in evidence as a USB.

20 MR. JACKSON: I think it's going to take too long,
21 Judge.

22 THE COURT: No, I understand if you don't want to do
23 it, too.

24 MR. JACKSON: I don't want to have to go through the
25 machinations --

1 THE COURT: All right. If you don't want to assist
2 because frankly it's not all that helpful to the defense.
3 I respect that as well.

4 MR. JACKSON: I don't want to go through us having to
5 bring it up. Ours may be different in terms of the type of
6 file that it's saved as and it just becomes clunky.

7 THE COURT: Okay. But I do appreciate your trying to
8 work together. Do the best you can with this, and if you
9 have an opportunity to work together and she's still on the
10 stand for the Commonwealth, and you can assist --

11 MR. JACKSON: (Indiscernible.)

12 THE COURT: So maybe that's something that could be
13 done. So do the best you can, and if you can't maybe the
14 defense would be kind enough to give you an opportunity to
15 do it. I'm not telling you to.

16 MR. JACKSON: No, I understand.

17 THE COURT: All right.
18 end of sidebar.)

19 THE COURT: Jurors, I just want to tell you, I
20 appreciate counsel trying to work together for this. It's
21 probably going to take too long so we're just going to make
22 do. We've had enough interruptions today, so.

23 Q Now, Ms. McCabe, as far as what you observe from what
24 you can on the screen right now --

25 A Uh-huh.

1 Q -- the condition of the passenger's side taillight, is
2 that consistent with what you observed when you parked the
3 vehicle there sometime earlier that morning?

4 A It's kind of hard to see from this distance.

5 Q Just if you could, lastly, with the laser pointer
6 direct the jury's attention to where in the video you see
7 the passenger's side taillight?

8 A (Witness complies.)

9 MR. LALLY: Ms. Gilman, you can take that
10 down.

11 Q Now, Ms. McCabe, you then yourself the defendant and
12 Ms. Roberts then get into Ms. Roberts' vehicle, is that
13 correct?

14 A Yes.

15 Q Who is seated where within Ms. Roberts' vehicle as
16 you're going from Meadows Ave. or what was the plan or
17 where were you going sort of first when you left Meadows
18 Ave?

19 A We were going to Fairview.

20 Q And why were you going to Fairview?

21 A Because Karen kept screaming we need to go to Fairview.

22 Q Now, who was seated where within the vehicle when you
23 get in?

24 A Kerry was driving, I was in the passenger's seat and
25 Karen was in the back.

1 Q What were the lighting conditions at this point as
2 you're driving over there?

3 A It was hard to see out the window. You really had to
4 be kind of staring out. It was dark. The snow was coming
5 at the car.

6 Q And as you're making that drive or as Ms. Roberts is
7 making that drive from Meadows Ave. to Fairview about how
8 long a drive is it?

9 A Approximately ten minutes. I mean with the weather,
10 the lights, you know, the streetlights, I would say about
11 ten minutes, give or take.

12 Q As far as during the drive from Meadows Ave. to
13 Fairview what's going on inside the car over the course of
14 that ride?

15 A Karen is in between us like from the back kind of
16 pushing up in between Kerry and myself and she's just
17 screaming, Kerry, Kerry, her name over and over, my name
18 over and over and repeating certain phrases. Could I have
19 hit him? Did I hit him?

20 Kerry is yelling at her to shut up, to sit
21 back, to buckle up, to look for John.

22 Q And while this is going on what if anything are you and
23 Ms. Roberts doing in the front seat of the car?

24 A She's slowly driving and I'm just peering out the
25 window looking for John. I mean, it was a crazy situation.

1 She's screaming he didn't come home. Could he be walking
2 home? Where is he? So we're just looking out the window
3 looking for John.

4 Q Now, during the time that this is going on and Ms. Read
5 is sort of screaming in between you was that continuous or
6 what if anything else did you see her doing in the back
7 seat while you were going from Meadows Ave to Fairview?

8 A I didn't see her doing anything. She just continuously
9 screamed that and then as we got by different landmarks she
10 then started, you know, screaming asking if John could be
11 at certain people's houses.

12 Q And whose houses was she asking if John could be at?

13 A It he could be at (c) [REDACTED]'s house.

14 Q Referring to the directions that you had provided the
15 night before?

16 A Correct.

17 Q And so that would have been, that was a child who was
18 around the age of (c) [REDACTED] and your daughter, correct?

19 A Yes.

20 Q There had been some years in the past, a dating
21 relationship between Mr. O'Keefe and (c) [REDACTED]'s mother,
22 correct?

23 A Yes.

24 Q So Ms. Read is saying that in the car that morning as
25 you're driving over to Fairview?

1 A Yes, she asked, could he have been with Ashley and I
2 looked at her and said no because to me that was a crazy
3 idea. And then Kerry had mentioned, Oh, do you think he
4 could have called somebody else that lived on a street over
5 and she started screaming, Who is that? Who is she?

6 Q And do you recall who Kerry referred to?

7 A Yes.

8 Q And who was that?

9 A A woman that John had previously dated.

10 Q Was that anywhere recent in time from when you're
11 driving around on January 29th when they had dated?

12 A No.

13 Q So similar to (C)'s mother it would have been years
14 before?

15 A Correct.

16 Q And so when Ms. Roberts said that what if anything did
17 the defendant say?

18 A She was just spiraling, yelling about Ashley, who was
19 (C)'s mom and just talking what I thought was very
20 irrational about John maybe being with her.

21 Q So you're looking around outside the vehicle as the
22 vehicle is going down Fairview, is that correct?

23 A Yes.

24 Q You recall how it was that Ms. Roberts came about
25 coming to Fairview similar to the night before, did she

1 come in from the Chapman side or from the Cedarcrest side?

2 A Chapman.

3 Q As the vehicle turned from Chapman onto Fairview what
4 if conversation was going on at that point?

5 A Well, (C) lives on that street so that's when that
6 conversation was being had. Also, just a continuation. It
7 was just like continuous screaming of our names, Kerry
8 screaming at her to sit back and then sometimes she would
9 sit back and almost like be quiet for a minute and then it
10 would start all over again.

11 Q Now as you were coming down Fairview Road what if
12 anything were you saying to Ms. Roberts, did Ms. Roberts
13 know where she was going as far as where your sister lives?

14 A No, I told her that my sister lived at the bottom and
15 then as we got closer I said, you know, just past, see
16 where those trees are, just past the trees is my sister's
17 house.

18 Q As you got in that area sort of the trees from the
19 residence of your sister at 34 Fairview Road, the trees
20 that you're talking about, where are they in relation to
21 the property?

22 A They're at the, the start of the property is the trees,
23 and then their property begins.

24 Q So the flagpole area and fire hydrant that you were
25 talking about in earlier exhibits is that in the same area

1 as the trees?

2 A Yes, it goes the trees and then the fire, you, hydrant,
3 then further up is the fire hydrant and the flagpole.

4 Q As you're coming down Fairview now approaching 34
5 Fairview the house would be on which side of the vehicle,
6 on the driver's side or the passenger's?

7 A The driver's side.

8 Q And as you approached that area where the trees and the
9 flagpole and the fire hydrant were, what if anything
10 happens next?

11 A We pass, we drive past the flagpole area and all of a
12 sudden Karen starts screaming, There he is, There he is,
13 and she's banging to get out.

14 Q Banging on the door in the back seat?

15 A Yes.

16 Q At the time that she is saying this were you able to
17 see anything outside of the vehicle?

18 A I saw nothing.

19 Q And what if anything when she's banging on the door
20 what if anything, what did Ms. Roberts do?

21 A Ms. Roberts unlocked the door. Karen got out. Ms.
22 Roberts looked at me and said something like she's crazy or
23 she's batshit crazy, something like that.

24 Q And when the defendant gets out of the vehicle where is
25 it that she goes?

1 A She just runs.

2 Q And runs where?

3 A Straight to John.

4 Q Again, when she's running at this point in time can you
5 see what she's running toward or where she's going or
6 anything that she's talking about?

7 A I was on the passenger's side so as I got out she was
8 already at John.

9 Q So she gets out and essentially makes a B-line over to
10 where John was?

11 A Correct.

12 Q And you're getting out of the passenger's side and by
13 the time you come around the car she's already there?

14 A Yes.

15 Q And when she gets over there what, if anything, could
16 you see at that point?

17 A She straddles John and she lifts up his shirt and then
18 she lifted up her shirt and went to lay on him and Ms.
19 Roberts went over and she was removing the snow from his
20 face.

21 MR. LALLY: Let me take a step back from that
22 just for a moment. And your Honor, with the Court's
23 permission I ask that I publish just a portion of what's
24 been marked as Exhibit 12.

25 THE COURT: Okay.

1 Q Now, Ms. McCabe, I'm going to direct your attention to
2 what was previously marked as Exhibit 12 and I know this is
3 not something that pertains to your vehicle but what I'm
4 going to ask you is if what you observe in this video is
5 consistent with what you observed on Fairview Road that
6 morning.

7 MR. LALLY: Ms. Gilman, if you could play it.

8

9 (Portion of Exhibit 12 was played.)

10

11 Q Now as this video is running, Ms. McCabe, if I could
12 just ask, is what you see in this video sort of consistent
13 with the lighting and the conditions weather-wise that you
14 observed when Ms. Roberts were driving from Meadow Ave to
15 Fairview?

16 A Yes.

17 MR. LALLY: Can you just stop it.

18 Q Ms. McCabe, do you recognize whereabouts in the town of
19 Canton this perspective was as far as what street was that
20 you observed in the video?

21 A Yes, we just passed Cassie's Corner Store and that is
22 Chapman Street.

23 MR. LALLY: Ms. Gilman, can you play it again.
24 Ms. Gilman, stop here.

25 Q Again, Ms. McCabe, do you recognize whereabouts in the

1 town of Canton you are in this portion of the video?

2 A Yes.

3 Q Where are we?

4 A This is the top of Fairview.

5 Q This would be from Chapman coming down Fairview is that
6 correct?

7 A Correct.

8 Q Prior to that along that ride along Chapman, is that
9 the period of time you're looking out the window and trying
10 to see if you can see John on the side of the road?

11 A Yes, but we didn't drive that way.

12 Q You came from the other direction?

13 A Yes.

14 Q You would have been taking instead of a right onto
15 Fairview you would have been taking a left onto Fairview?

16 A Yes.

17 MR. LALLY: Ms. Gilman. Stop right there.

18 Q Now, what's up on the screen and what you just have
19 observed as far as the drive down Fairview is that a fair
20 and accurate portrayal or consistent with what you observed
21 when Ms. Roberts was driving down that morning?

22 A Yes.

23 Q And at this point in time as you're coming sort of down
24 the hill from Fairview is this the point that the
25 conversation occurs far as (C)'s mother and prior dating

1 relationships and things like that?

2 A A little bit. More towards the top of the street.

3 Q (C) 's mother lived more closer to the top of like
4 Chapman?

5 A Midway down, yes.

6 MR. LALLY: Ms. Gilman, if you could.

7 Q The vehicle on the roadway there, do you recognize
8 that?

9 A Yes.

10 Q What do you recognize that to be?

11 A Ms. Roberts.

12 Q Just for -- purposes with the laser pointer now the
13 area where you observed Mr. O'Keefe, do you see this in
14 this particular frame of the video?

15 A (Witness complies.)

16 Q Now the area where you observed Mr. O'Keefe, can you
17 see this in this particular paused frame in the video?

18 A Not in this frame I cannot. It's not clear.

19 MR. LALLY: Ms. Gilman if you could.

20 Q (By Mr. Lally) Do you see that area now?

21 A Yes.

22 Q Using the laser pointer could you direct the jury's
23 attention to that?

24 A (Witness complies.)

25 MR. LALLY: Ms. Gilman, if you could play

1 this. If you could fast-forward -- play. Pause.

2 Q Ms. McCabe, do you recognize any of the individuals up
3 on that screen?

4 A Yes.

5 Q If you could with the laser pointer direct the jury's
6 attention, who do you recognize and who do you recognize
7 where?

8 A Kerry Roberts, myself, Karen Read.

9 MR. LALLY: Thank you. Ms. Gilman, you can
10 take that down.

11 Q Ms. McCabe, if I could just take you back to when you
12 arrived there, you indicated Ms. Read goes over to Mr.
13 O'Keefe, Ms. Roberts, what is it that you were doing at
14 that point?

15 A I got out of the car and I came around and for a second
16 or two I completely just froze. I couldn't believe what I
17 was seeing. And then Kerry and I made eye contact and I
18 called 911 and Kerry was asking me to go to the car and
19 get, she was yelling to get towels or blankets or something
20 out of the back of her car.

21 Q Is that why the back of the car is opened up in the
22 video that we just saw in reference to Ms. Robert's vehicle?

23 A Yes.

24 Q Was she directing you where to go within the vehicle to
25 get the blankets or towels or whatever it was?

1 A Yes.

2 Q You called 911, you spoke to the operator and told them
3 essentially where you were, correct?

4 A Yes.

5 Q Now as far as that initial what you saw that you froze
6 and couldn't believe what you saw, can you describe for the
7 jury what it was that you saw?

8 A I saw Kerry wiping the snow off of John's face and I
9 could not believe that that was John right there.

10 Q And how was John positioned or how was his body
11 positioned when you saw him?

12 A He was just laying flat on his back.

13 Q As far as the snow Ms. Roberts was wiping off his face
14 was there any other snow on his body at that point in time?

15 A Yes.

16 Q If you know, about how much?

17 A There was enough that his body was covered in snow.

18 Q And could you tell at that point how far Mr. O'Keefe
19 was from the roadway as far as Fairview Road was concerned?

20 A I mean I remember kind of a little ways in. I don't
21 know exactly.

22 Q So you make that call to 911 and what is sort of going
23 on with respect to Ms. Roberts, the defendant and Mr.
24 O'Keefe while you're on that 911 call?

25 A So I run the blankets over to Ms. Roberts and she's

1 putting, kind of lifts him up, put the blankets kind of
2 underneath him and she's screaming at Ms. Read to get off
3 of Mr. O'Keefe and they're kind of yelling back and forth.

4 Karen is screaming, Is he dead? Is he dead? I,
5 at some point walk over to the car, Kerry's car to get away
6 from her because they were so loud and I was trying to calm
7 and get help there for John as fast as possible.

8 Kerry starts yelling about doing CPR. She
9 tells Karen to do mouth-to-mouth. Karen is yelling because
10 as they start blood starts coming out of John's mouth.

11 Q As far as the CPR, that's what you're talking about?

12 A Yes.

13 Q So during this time the defendant is yelling and you're
14 on the phone with 911, correct?

15 A Yes.

16 Q You were trying to back up or distance yourself a
17 little bit so that you could hear what was going on with
18 the 911 operator and they could hear you?

19 A Yes.

20 Q After you complete that 911 call, what's going on at
21 that point?

22 A I go over and at that point Kerry asks if I can take
23 over doing the compressions.

24 Q And did you do that?

25 A I did, yes.

1 Q At some point after you call 911 do either police or
2 fire or someone responds and arrives on scene, is that
3 correct?

4 A Yes.

5 Q Do you know about how much time it was when you hung up
6 with 911 to when first responders arrived?

7 A When I hung up maybe a few minutes. I'm not exactly
8 sure.

9 Q Do you recall whether or not it was police or fire who
10 showed up first?

11 A Police.

12 Q Is that the officer that was in that video or that
13 cruiser that was just up in the screen displayed?

14 A I didn't see the officer in the video but I know
15 Officer Saraf was the first officer who arrived.

16 Q So then after the officer arrives what happened then?

17 A He was trying to figure out what had happened. Karen
18 just ran around screaming my name, Kerry's name. Is he
19 dead? Is he dead? It was on repeat. Could I have hit
20 him? Did I hit him? More officers started to arrive. The
21 EMTs, they began to work on him.

22 Q And by him you mean Mr. O'Keefe?

23 A Yes.

24 Q And Mr. O'Keefe is still on the ground and they're
25 working on him there, is that correct?

1 A Yes.

2 Q Could you see anything about sort of what they were
3 doing or what was going on with that?

4 A No, I just saw a bunch of them around Mr. O'Keefe.

5 Q And then what happened next?

6 A More officers began to arrive. Ms. Read just continued
7 to run around screaming. As more officers and EMTs arrived
8 they asked what happened. One EMT asked, you know they --

9 MR. JACKSON: Objection.

10 THE COURT: I'll allow it.

11 A -- one EMT had asked, do you know his name, his age,
12 things like that, if she knew what happened. Ms. Read
13 stated that she hit him. Besides running around saying I
14 hit him, Did I hit him, Could I have done this, Is he dead,
15 Is he dead.

16 At one point one of the police officers put
17 Ms. Read in the back of her (sic) cruiser and he asked for
18 myself to go over with her and Kerry came over with us, as
19 well.

20 Q If I can just take you back, when the paramedic is
21 asking for information, biographical information, things
22 like that, you indicated that the defendant said, I hit
23 him, is that correct?

24 A Yes.

25 Q Is that something that she said once or more than once?

1 A Three times. I hit him, I hit him, I hit him.

2 Q Now, before you had made references to statements she
3 made with sort of qualifiers or questions as far as, Did I
4 hit him, is that what she said at that time when she was
5 talking to the paramedic?

6 A No, she earlier, it was, Could I? Did I? When she
7 spoke to the paramedic it was crystal clear, I hit him.

8 Q Now, one of the officers takes her over to the back of
9 her cruiser, is that right?

10 A Yes.

11 Q And you were over in that area, as well?

12 A Yes.

13 Q Who if anyone else was in that area?

14 A Ms. Roberts.

15 Q And while you were over in that area what was going on
16 over there?

17 A We were in the back of the police cruiser. Karen was
18 sitting in there. I kind of scooched myself in. Ms.
19 Roberts came over. Karen grabbed our hands. She asked us
20 to pray.

21 She looked at her hands and she had blood. She
22 asked us if she could had gotten her period. We told her
23 no, that was John's blood.

24 Then she said, "What if he's dead. Promise me
25 you'll take care of the kids. Someone has got to take care

1 of the kids.

2 Then we prayed. Then at the end they were
3 moving John and at that point Karen told Kerry go over,
4 look, Is he dead, Is he dead, Is he dead over and over and
5 Kerry said I'll go over and check on him and she was
6 yelling, are they working on him and then at that point she
7 grabbed my hands and she said, Google hypothermia, Google
8 how long it takes to die in the cold.

9 And so I had my phone out and it was cold and
10 my hands were frozen and I had [REDACTED] and I took my phone out
11 while she was screaming and shaking my arm and I attempted
12 to Google how long does it take to die in the cold.

13 Q And when you conducted that search the defendant's
14 request on-scene sometime after 6:00 a.m. on that day, is
15 that correct?

16 A Yes.

17 Q Do you recall whether or not that came up as far as
18 your search in Google, is that something you typed once or
19 more than once or do you know?

20 A I believe I did it multiple times because as I was
21 typing it I don't know what else was coming up. She was
22 screaming. My hands were shaking.

23 Q Do you recall anything as far as what the search
24 results were or did you click on anything did you get an
25 answer to the question the defendant had posed to you?

1 A I don't think I got an answer because as I kept
2 Googling and she kept yelling and they were moving John and
3 the next thing I knew they we were kind of moving because
4 she wanted to see if they were working on him.

5 Q So when you were moving along with the defendant over
6 towards where Mr. O'Keefe had gone with the ambulance?

7 A Yes, we kind of just moved to see what was going on.

8 Q When you moved over what did you see then?

9 A They were just putting him the back of the ambulance.

10 Q Now after Mr. O'Keefe was put into the back of the
11 ambulance where did you go then, what did you do?

12 A At that point different police officers, I believe,
13 were arriving and they were asking questions about what
14 happened.

15 Q And did you speak to those officers?

16 A I did, yes.

17 Q At that point did you know what happened?

18 A No, to be honest it was like I was there but everything
19 was just going on and I was, I was completely just in a
20 state of shock and disbelief.

21 Q And that sort of period there how long did that go on?

22 A So I talked to a few officers. We tried to just give
23 them, you know, he didn't come home. We went out looking
24 for him, kind of just the brief overview and then one of
25 the police officers asked me to go into the house and to

1 wake up my sister and my brother-in-law.

2 Q At some point while you were outside did you try to
3 contact your sister and your brother-in-law?

4 A I believe I called my sister, Nicole.

5 Q When was that in relation to everything as far as
6 medically that was going on with Mr. O'Keefe and with
7 all --

8 A I think I might have called her right after I got off
9 with 911 possibly and then she didn't answer and that's
10 when I was walking over to John.

11 Q And she didn't answer the call when you called her
12 initially?

13 A No.

14 Q And do you recall calling either your sister, Nicole or
15 your brother-in-law Brian Albert prior to going into the
16 house?

17 A I don't recall. I know I did call Nicole at one point.
18 I'm not sure if I called Brian or not.

19 Q Regardless if you called or didn't call do you recall
20 having any sort of phone conversation with either Nicole or
21 Brian Albert before you went in the house?

22 A No.

23 Q So you at least called your sister Nicole, she didn't
24 answer and then one of the officers directed you to wake
25 them up?

1 A Yes.

2 Q And when you went up to the house at 34 Fairview how
3 did you get in?

4 A The front door.

5 Q The front door was unlocked?

6 A Yes.

7 Q Is that typical from your experience at that residence?

8 A Yes.

9 Q And so you went into the house and where did you go?

10 A I went up the stairs to their bedroom.

11 Q The bedroom door, when you arrived there, was it open
12 or closed or something else?

13 A Closed.

14 Q And you opened it?

15 A Yes.

16 Q When you opened it, who if anyone did you see in the
17 room and what were they doing?

18 A I saw my sister and Brian and they were both asleep.

19 Q Are you familiar with a dog that they have?

20 A Yes.

21 Q What was the dog's name?

22 A Chloe.

23 Q Was Chloe in the bedroom, as well, at that time?

24 A I don't recall.

25 Q You come in, they're both sleeping and what happened

1 then?

2 A I go over to the bed and I'm calling out their names.

3 Q How long were you calling out their names before you
4 got any kind of response?

5 A Brian responded first and he was very, you know,
6 startled and looked at me like what is going on. Nicole
7 took a little, you know, I think it took Nicole a little
8 bit longer than Brian to wake up.

9 Q And what is it that you're telling them as you're
10 coming into the room and they're waking up?

11 A I'm telling them that we just found John out front and
12 I could have possibly said John has died. We just found
13 John out front. They were very confused.

14 At one point I think Brian was like, who is
15 John? I mean, they had just woken up and they had no idea
16 what I was talking about.

17 Q Now as far as when they're first waking up and you're
18 explaining to them how would you describe sort of their
19 demeanor as you're talking?

20 A They were both shocked. I think they thought like, you
21 know, like why --

22 MR. JACKSON: Objection.

23 THE COURT: Not what you think they thought.

24 THE WITNESS: Okay.

25 Q What I'm asking you, ma'am, is when you observed them

1 how would your physical observations, and what they looked
2 like the demeanor at that point?

3 A Shocked, confused, not understanding.

4 MR. JACKSON: Objection. Move to strike.

5 THE COURT: Strike the last one.

6 Q Now as far as conversation that you're having with your
7 sister and your brother-in-law in their bedroom how long
8 was that going on?

9 A A few minutes at least.

10 Q And then following that where did you go?

11 A They got up, got dressed and then we walked down the
12 stairs.

13 Q And when you got to the bottom of the stairs what if
14 anything did you see when you got there?

15 A There was police officer at the bottom of the stairs.

16 Q Do you know who that police officer is?

17 A Yes, Officer Lank.

18 Q At that time did you know who that police officer was?

19 A I did, yes.

20 Q How did you know him?

21 A He's from Canton. He was, I don't know, five years
22 older than me. I knew him kind of growing up, who he was
23 and met him through the years.

24 Q You were aware of who he was?

25 A Yes.

1 Q And were there any other officers with him initially?

2 A No.

3 Q Now before you go into the house do you know where Ms.
4 Roberts and the defendant were doing when you went to the
5 house?

6 A I believe they put Karen in a car and --

7 MR. JACKSON: Objection.

8 THE COURT: Only if you know.

9 THE WITNESS: Okay.

10 Q If you know, do you know?

11 A Karen was in a car. Kerry was walking all around.

12 Q Now as far as the ambulance with Mr. O'Keefe, at the
13 time that you go into the house was that ambulance still
14 there?

15 A I'm not 100 percent sure but I believe it had left.

16 Q When you come downstairs with your sister and your
17 brother-in-law and the officer is there, you have a
18 conversation, is that correct?

19 A Yes.

20 Q Where did that first conversation occur?

21 A In the hallway and then into the kitchen.

22 Q And from there you mentioned there was Officer Lank at
23 one point. Were there any other officers that joined that
24 conversation at some point?

25 A Hours later, yes.

1 Q So, during that initial conversation, you're talking to
2 the officer, who if anyone else, not what they said, but
3 who if anyone else is speaking to the officer?

4 A Brian and Nicole.

5 Q The conversation initially with officers, do you know
6 about how long that went on?

7 A I don't, a few minutes.

8 Q Following that conversation what did you do or what
9 happened next?

10 A My husband arrived.

11 Q And had you called him?

12 A Yes.

13 Q When had you called him?

14 A I called him as I was walking in the house to wake up
15 my sister and Brian.

16 Q As you're walking in you call your husband, Matt, and
17 then he arrived at some point after, was it after you're
18 done talking to the officer or while you're talking to the
19 officer?

20 A The officer was still in the house, yes.

21 Q So in that vein when the officer was still in the house
22 the officer was there, correct?

23 A Yes.

24 Q Did you see your husband talking to the officer, as
25 well?

1 A Yes, the officer asked him to step outside or step to
2 the side and they spoke.

3 Q And then what happened then?

4 A The officer told me to stay --

5 MR. JACKSON: Objection.

6 THE COURT: I'll allow that. Told you to
7 stay.

8 A The officer told me to stay and that he said that the
9 state police would be coming to talk to me.

10 Q And so you stayed at the house at 34 Fairview, is that
11 right?

12 A Yes.

13 Q Do you know where Ms. Roberts and the defendant were?

14 A Yes, Kerry came up and she had told me that she --

15 THE COURT: Not what she told you. Next
16 question, Mr. Lally.

17 Q At some point did you see Ms. Roberts and the defendant
18 go somewhere?

19 A Yes, to pick up John's parents.

20 MR. JACKSON: Objection, move to strike.

21 THE COURT: I'll strike that.

22 Q As far as, they left in Ms. Roberts' car, is that
23 right?

24 A Correct.

25 Q Ms. Roberts was again driving?

1 A Correct.

2 Q And at some point did you observe them come back to the
3 house?

4 A Yes.

5 Q About how long was it between the time they left and
6 the time they came back?

7 A Five minutes, approximately.

8 Q And after they came back to the house what if any other
9 activity did you see outside as far as first responders?

10 A I was in the house so I didn't see Ms. Roberts pull
11 back up.

12 Q You were in the house for most of rest of the time that
13 you were there, correct?

14 A Correct.

15 Q How long were you there that morning waiting for the
16 state police?

17 A I believe I left approximately 11:00 to 11:30.

18 Q During the time that you were there, you're there, you
19 sister, Nicole Albert is there, your brother-in-law, Brian
20 Albert is there and your husband, Matthew McCabe is there,
21 correct?

22 A Correct.

23 Q Was there anybody else that arrived at some point over
24 the course of the morning while you were there at the
25 house?

1 A Yes.

2 Q And who was there and if you know what time was it that
3 they arrived?

4 A Julie Albert.

5 Q Now with reference to when Julie Albert arrives, at
6 some point around that time did you have occasion to look
7 out and see sort of what was going on outside?

8 A No.

9 Q Were you aware whether or not there were any police or
10 fire or anything that was still there at the time that Ms.
11 Julie Albert arrived?

12 A There wasn't.

13 Q She comes in the house and at some point I'm assuming
14 she's informed of what had happened there before her
15 arrival?

16 A Yes.

17 Q When she's informed of that what if anything did you
18 observe about her demeanor or how she reacted?

19 A Shocked.

20 Q Now in addition to Julie Albert who if anyone else was
21 at the house that morning while you were there?

22 A Officer Lank and Gallagher were there and prior, oh,
23 Brian Higgins also came that morning.

24 Q And do you know how Brian Higgins came to know or how
25 Brian Higgins came to be there that morning, if you know?

1 A I don't know.

2 Q Now, you mentioned that Officer Lank came back to the
3 house, is that right?

4 A Yes.

5 Q Now was that for some period of time when he had left?

6 A Yes.

7 Q He came back with another officer named Gallaher, is
8 that right?

9 A Yes.

10 Q Why did they come back to the house?

11 A Because I called Officer Lank.

12 Q Did you have his number or how did you get your number?

13 A Julie Albert gave it to me.

14 Q So you called Officer Lank, he then comes back to the
15 house on Fairview, is that correct?

16 A Yes.

17 Q When he came back what is it that you, why did you ask
18 him to come back?

19 A Well, as I was sitting there and I was waiting for the
20 state police to come I was slowly trying to piece together
21 what had just happened in the last couple of hours and he
22 had told me if there's anything that you remember, you
23 know, once, you know, if you remember anything please, you
24 know, give me a call.

25 Q So there was something that you remembered and you gave

1 him a call?

2 A Yes.

3 Q When he came back to the house what was it that you
4 told him?

5 A I told him about the comments and the remarks that
6 Karen Read had been stating that morning.

7 Q And specifically what types of remarks are you
8 referring that you told Officer Lank when he came back to
9 the house?

10 A I said that she told one of the EMTs that she hit him.

11 Q Now at some point you indicated that you left the house
12 on Fairview is that right?

13 A Yes.

14 Q And with your husband, I presume?

15 A Yes.

16 Q Where did the two of you go?

17 A We went home.

18 Q And your children were still there without either you
19 or your husband there, correct?

20 A Yes.

21 Q And once you arrived back home what is it that you did
22 at that point?

23 A We went in the house and Officer Proctor was coming
24 over to speak with us.

25 Q Officer Proctor, is that someone that you knew

1 previously or had ever met before?

2 A I never met Officer Proctor.

3 Q Did he come alone or was he with someone else?

4 A He had another officer with him.

5 Q Do you know who that other officer is?

6 A Yes, Yuriy Bukhenik.

7 Q And had you ever met Yuriy Bukhenik?

8 A No.

9 Q When you get home about how long was it from when you
10 arrived at home with your husband to the time that the
11 officers from the state police came by?

12 A It was pretty quick.

13 Q Now, in addition to the officers from the state police
14 did anybody else come over to your house that your that
15 day, late morning, early afternoon?

16 A Yes, my brother-in-law, Brian.

17 Q Do you know why he came over that day?

18 A Yes, he came over. I had asked him. He's like a big
19 brother to me and I was all shaken up and nervous and
20 overwhelmed and so I wanted his support.

21 Q And he obliged and he came over, correct?

22 A Yes.

23 Q At some point the officers from the state police came
24 over and you spoke to them, is that correct?

25 A Yes.

1 Q Do you recall where in your home you spoke to them?

2 A In my dining room.

3 Q When you spoke to them was it both of the officers who
4 were present?

5 A Yes.

6 Q When you spoke with them was there anybody else present
7 in the dining room when you were talking to them?

8 A No.

9 Q As far as your husband or your brother-in-law, Brian do
10 you know where in the house they were when you were in the
11 dining room?

12 A Yes, they were in my bedroom.

13 Q And at some point later on that day, did those same
14 officers talk to both your husband and your brother-in-law,
15 Brian Albert?

16 A Yes.

17 Q And during each of those respective conversations or
18 interviews do you know where you were in the house when
19 those were going on?

20 A In my bedroom.

21 Q And when you were in your bedroom could you hear
22 anything that they were saying downstairs in the dining
23 room?

24 A No.

25 MR. LALLY: If I may I have a moment, your

1 Honor?

2 THE COURT: Yes.

3 MR. LALLY: May I approach, your Honor?

4 THE COURT: Yes.

5 Q Ma'am, I'm showing you two separate pages. I ask you
6 to look at each of them and look up when you're finished.

7 A Okay.

8 Q Do you recognize each of those documents and what the
9 content is?

10 A Yes.

11 Q And those are essentially, one contains text messages
12 that morning on the 29th between yourself and Ms. Read, is
13 that correct?

14 A Yes.

15 Q The other one is sort of the list of phone calls
16 between yourself and Ms. Read from that morning, as well?

17 A Yes.

18 Q Before I get into those as far as after you had gone
19 inside the house and Ms. Read had got into Ms. Roberts' car
20 what if any other communication or what if any other
21 communication did you have with Ms. Read that morning?

22 A I texted her asking for Kerry's phone number because I
23 didn't have it and I also had a phone conversation with
24 Karen when she was in the ambulance.

25 Q And that text communication that I placed before you

1 essentially has one bubble on it and that's you asking for
2 Kerry Roberts' number?

3 A Correct.

4 Q And the phone conversation that you had with the
5 defendant when was that and do you know where the defendant
6 was at the time that you spoke with her?

7 A Yes, she was in an ambulance.

8 Q If you could describe for the jury, sort of generally
9 speaking, what was the content of that conversation, what
10 did the two of you talk about?

11 A She just was just repeating, asking is he dead, is he
12 dead. She brought up the kids and then she also asked if I
13 would visit her.

14 Q And how did you respond?

15 A I said yes.

16 Q Now following that phone conversation did you have any
17 further communication in any form that you can recall with
18 the defendant?

19 A No.

20 MR. LALLY: Your Honor, may I approach?

21 THE COURT: Yes.

22 MR. LALLY: The Commonwealth would seek to
23 introduce and admit each of those as the next two exhibits.

24 THE COURT: Is there an objection, Mr.
25 Jackson?

1 MR. JACKSON: No objection, your Honor.

2 THE COURT REPORTER: Any particular order?

3 MR. LALLY: It doesn't matter. whichever.

4 THE COURT: Text first, please.

5 MR. LALLY: Oh.

6 (Whereupon Exhibit No. 94, Extraction Report, was marked as
7 an exhibit.)

8 (Whereupon Exhibit No. 95, Extraction Report, was marked as
9 an exhibit.)

10 Q Just a couple more questions, ma'am.

11 A Uh-huh.

12 Q Now you had asked the defendant, Ms. Read, for Ms.
13 Roberts' information because you didn't have it, right?

14 A Correct.

15 Q At some point had you received that information from
16 the defendant?

17 A No.

18 Q Did you receive that information from any other source?

19 A I must have but I don't recall how.

20 Q As far as asking for Ms. Roberts' information why were
21 you asking?

22 A She was on the way to pick up John's parents and to
23 bring them to the hospital and I wanted to check in on them
24 and then further updates from Kerry about John and how he
25 was.

1 Q You wanted to know how your friend was doing, correct?

2 A Yes.

3 MR. JACKSON: Objection.

4 THE COURT: Sustained.

5 MR. LALLY: I have no further questions for
6 this witness, Your Honor.

7 THE COURT: All right. It's four minutes of
8 four. I think we'll wait until Monday morning.

9 MR. JACKSON: I don't think I can get it done in
10 four minutes.

11 THE COURT: All right. Jurors, we're not in session on
12 Monday, so we'll come back Tuesday morning. So Tuesday
13 will be a half a day. Someday next week, I might ask you
14 to think about may be revising some of these
15 Tuesday/Thursdays to longer days, but I'll give you plenty
16 of notice for that. I need to make sure the lawyers -- I'm
17 just asking you to think about it. All right. So please
18 those same questions. Do not discuss this case with
19 anyone, don't do any independent research or investigation
20 into this case. If you happen to see, hear, or read
21 anything about this case, please disregard it. Again leave
22 everything here literally, figuratively, clear your heads,
23 and we'll see you fresh Tuesday morning. So thank you.

24 (Jury out.)

25 (Witness exits.)

1 THE COURT: All right. So I'll see counsel at sidebar
2 about scheduling.

3 (Sidebar commences:

4 THE COURT: So it seems like we're going very slowly.

5 MR. LALLY: Slower than -- I think slower than everyone
6 would like it.

7 THE COURT: Stop repeating, okay, and I don't want to
8 cut a defendant's case off, but it was repetitive.

9 MR. JACKSON: Geez, I cut out the whole water phone. I
10 cut out everything. It took me a long time to get through
11 the V marks. It took way longer than I anticipated.

12 THE COURT: So I will often tell counsel my observation
13 of the jurors. You've got cocounsel so I don't need to
14 tell you.

15 MR. YANNETTI: I understand

16 THE COURT: All right. This is the end of week three
17 and we're about where I thought we'd be at about a week and
18 a half. Am I wrong on that?

19 MR. LALLY: No. I mean, I'd say by my estimation we're
20 about a week behind where I thought we would be.

21 THE COURT: All right. I'm going to keep those three
22 days off - that Wednesday, Thursday, and Friday. I would
23 like everybody the beginning of June we go all day Tuesday
24 and Thursday, because I think now we have to finish it by
25 the 4th of July which is problematic.

1 Okay. I'd like an idea of next week's witnesses. You
2 don't have to tell me, but I would like an idea. Are you
3 continuing with civilians?

4 MR. LALLY: Yes, but I think we're almost at the end of
5 that.

6 THE COURT: Okay.

7 MR. LALLY: So as I said to counsel, after Ms. McCabe
8 would be Ms. Roberts. After that would be Laura Sullivan
9 and Marietta Sullivan. Likely after that -- I mean, I
10 won't say likely because I have to confirm his schedule,
11 but I think Mr. Higgins could be after that.

12 THE COURT: I assume you might be cross-examining him.
13 Do you expect it to be a long cross-examination?

14 MR. JACKSON: I do.

15 THE COURT: I think he's going to potentially be one of
16 the longest witnesses.

17 MR. JACKSON: Your Honor, after Jen McCabe -- and I
18 will tell you Jen McCabe is not going to be short - Higgins
19 and Proctor are the big ones. Other than that --

20 THE COURT: I assumed.

21 MR. JACKSON: I think the Court may not be able to
22 tell, I'm pretty peppy on my crosses comparatively
23 speaking, so when --

24 THE COURT: As long as you leave the commentary out,
25 it'll go much better.

1 MR. JACKSON: Fair enough.

2 THE COURT: I am going to stop you on that.

3 MR. JACKSON: Fair enough. I've curtailed it.

4 THE COURT: A bit.

5 MR. JACKSON: I've curtailed it. But when it comes to
6 Good Sam -- the Good Samaritan witnesses, when it comes to
7 experts like the medical experts, the coroner's office, et
8 cetera, those aren't going to be long crosses. I don't
9 know how long their directs are going to be, but I may make
10 four points each and be done.

11 THE COURT: The experts are generally easier to
12 predict.

13 MR. JACKSON: Right.

14 MR. LALLY: One thing I can suggest, and I'll just put
15 it out there for counsel, I think personally from Good
16 Samaritan I get away with just Dr. Rice who's the
17 attending. He deals with both Mr. O'Keefe and the
18 defendant. Very limited with the defendant I would say
19 though. And then I have Dr. Fowler who is the director of
20 the lab. I think I can get everything I need in regard to
21 the blood from him.

22 THE COURT: It's not particularly difficult for Mr.
23 Lally to lay that foundation.

24 MR. JACKSON: No, I get it. I understand.

25 THE COURT: No, but in deference to your objection

1 earlier, I did not let him put it into his opening.

2 MR. JACKSON: Understood.

3 THE COURT: But it's fairly pedestrian.

4 MR. JACKSON: Understood.

5 MR. LALLY: So I'm thinking as far as the RN and the
6 PA, I don't think they have any sort of direct involvement
7 with that. It would just be a phlebotomist, but I think
8 everything that I can get from -- Dr. Fowler is also the
9 director of the lab, so I think I can cut those two out,
10 and I'm looking to see what else we can as we go along to
11 try to move this along a little bit.

12 THE COURT: Okay. I'd like advance notice of when --
13 if you're calling Trooper Proctor when that might be there
14 are evidentiary issues that I'm concerned with. You don't
15 have to tell me now, so. Yeah, if you can consciously make
16 an effort to cut out. People know what the house looks
17 like. They know the number of doors. They know the layout
18 of the kitchen, the same with the baths. So jurors are
19 much more interested in the testimony when it's new to
20 them.

21 MR. LALLY: Of course.

22 THE COURT: All right. Thank you, all. We'll see you
23 Tuesday.

24 MR. JACKSON: Thank you, Your Honor.

25 (Court in recess.)

C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE
TRANSCRIPT FROM THE RECORD OF THE COURT PROCEEDINGS IN THE
ABOVE-ENTITLED MATTER.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I
NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF
THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN,
AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE
INTERESTED IN THE OUTCOME OF THIS ACTION.

Christine D. Blankenship, February 3, 2025

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